

California Regional Transportation Summit

Date: January 10, 2014 – Time: 7:30 AM -5 PM

Location: Bakersfield, California



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Questions call: 661-324-7535 or Email: kmca@att.net

Hosted by: Kern Minority Contractors Association & Public / Private Partners

California Transportation Regional Summit

Kern / Palmdale / San Joaquin Central Valley

Hosted by Kern Minority Contractors Association

Invite You to Our

7th Annual

SB/DBE/DVBE/MBE/WBE/SEC-3

Public Agencies / Prime Contracting Outreach Forum

"Your Connecting Point for Jobs & Contracts"

January 10, 2014 Time: 7:30AM – 5PM

Bakersfield California

Invited Summit Speakers (Partial List)

State of California

- Brian Kelly, California Secretary of Transportation
 - Dan Richard, California High Speed Rail Authority Board Chairman
 - Jeff Morales, CEO - California High Speed Rail Authority
 - Malcolm Dougherty, Caltrans Agency Director
-

Federal Speakers

- Anthony Fox, US Secretary of Transportation
- Federal Rail, Office of Civil Right
- US Commerce - Minority Business Development Agency
- SBA

January 10th Agenda

Prime & Sub Contractors "Meet & Greet" – Breakfast

Breakout Workshop Session

Luncheon Speakers

Vendor Booth & Sponsorship Opportunities Available

1ST Annual – Golf Shotgun Tournament – Fundraiser

The Links at Riverlakes Ranch

Date: January 9, 2014 – Time: 1-6 PM



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Public Contracting
Boot Camp**



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Questions: 661-324-7535 Dominique or 661-747-1465 Marvin

Email: kmca@att.net

DBE / DVBE / SBE / MBE / WBE / SEC 3

Outreach & Good Faith Effort Conference

www.sjvannualpce.info

California's "Safe, Reliable High Speed Passenger Train" on Caltrain tracks ("Blended Rail") would be neither safe nor reliable. Caltrain tracks have many trackside passenger platforms and 43 grade crossings. HSR really needs secure, grade-separated trainways.

Far safer, more reliable, better, and less costly: upgrade Amtrak's Mulford route for HSR to a new intermodal San Francisco Bay Rail Hub at I-880/7th Street in Oakland (where BART crosses overhead). Capitol Corridor would be safer and faster on this shorter route also.

Provide closely-timed cross-platform transfers to Caltrain in San Jose and to Capitol Corridor at the Rail Hub. Connecting BART with other rail at the Rail Hub would massively cut GHG emissions by offering a viable alternative to driving.

From the Rail Hub, plan future HSR to Sacramento, with no costly tunneling or trans-Bay tube.

November 6, 2013

Chairman Richard
California High Speed Rail Authority
770 L Street, Suite 800
Sacramento, CA 95814

Dear Chairman Richard,

I was disappointed at the response that the Citizens for California High Speed Rail Accountability received regarding the simple request to participate in the monumental decision being made on November 7, 2013. Per information delivered by a Mr. Camarena to Mrs. Carol Walters, we believed the presentation and selection of alignment was to take place on November 15, 2013. When we discovered that this was not the case, our instant response was to ask for some method in which to participate locally to accommodate the people most impacted. A simple call in conference number would have sufficed, the same courtesy extended to Authority Board members who cannot attend meetings in person.

In my particular situation I made all attempts to attend the meeting in Sacramento on November 7, 2013 and unfortunately cannot rearrange meetings and work schedules. Two meetings were held on the same date, however the ability to participate locally would have allowed me to capture all of the events of the day. Therefore, it is with a disappointing tone that I inform you that your decision to not extend the courtesy offered to your own Board has forced me to assert that the public is being held to a different standard and being denied its right to participate in the greatest fashion possible.

The following items are those which I would like to call to the Attention of the Authority prior to asserting any decision of the alignments in Kings County:

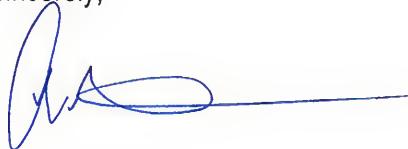
1. In the event that the Authority staff indicates to the Authority Board that all items have been resolved along the alignments, I would like to challenge that assertion and indicate that there are numerous lingering impacts and questions yet to be addressed. One question that had yet to be answered directly is the taking of rural homes and the lack of recognition that Kings County planning rules do not allow any future development of small rural "ranchette" homes (homes in the country on 1-5 acres). At this moment there is a shortage (in recent review of homes for sale I could only identify approximately 6 suitable homes for sale) and the Authority plans to relocate dozens of these just in Kings County.
2. In reviewing the Alignment recommendation report being presented to the Authority, the Authority staff seems to change course from the previous April 2013 report that was delivered. Total and numbers in the impacts seem to have changed. Did the alignment change? Was the EIR/EIS wrong? Either way the information being given is suspect at the least. Nowhere in the report does the Authority explain the changes such that the reader can understand if the changes were justified or legitimate.
3. The recent claims by the Authority that the City of Visalia is better served would indicate the benefits to accessing the City of Visalia population. This leads to the previous question I have posed, why not travel down the old Golden State Highway (right of way owned by State) and travel along the Union Pacific Railroad and service the City of Visalia where the Highway 99 and Highway 198 intersect. This is also where the City of Visalia wanted to place a station and donate land to the project.

4. If the Authority chooses the Eastern alignment the impacts to the development in the area will effectuate the conversion of more farmland than would be expected. This would accelerate the development of the City of Hanford and cause the conversion of land where it was not traditionally expected. Highway 43 has always been a natural boundary for the City, which is indicated by the lack of utilities (none) that extend past Highway 43. Essentially utilities were developed to end at the highway and there is no excess capacity to carry them beyond that point.
5. A tunnel option for Kings County was proposed several years ago. The information and impression that we received from previous Board members and consultants was that it was infeasible. However, recent discussions with Authority staff and recent reports that tunneling is being utilized in other areas to deal with impacts, would indicate that tunneling is feasible and a measure by which to mitigate for impacts. Furthermore I learned through a Public Records Request that there have been no studies in Kings County to determine feasibility and that the costs are no so significant that it would eliminate it from even being studied.

Lastly the waffling of the Authority between alignments highlights the lack of a distinguishing alternative to analyze within the EIR/EIS process. What we see is a situation where both apples in each hand are rotten, so which rotten apple will you eat? What is even more disturbing is that between April 2013 and now the analysis and impacts have changed and the public has not been made aware.

In closing, the Authority has a responsibility to the public, and more importantly to those impacted by the project to properly catalog, present and analyze impacts. What we are witnessing is the lack of outreach at the critical stages of the project (prior to public review of the EIR/EIS) has left the project schizophrenically jumping between alignments to determine the worse alignment out of two bad alignments. Had the outreach been done earlier a suite of alternatives could have been properly vetted in the public. **I strongly encourage the Authority to instruct staff to postpone development of the Draft Revised EIR/EIS, hold public meetings to fully vet potential alternatives, and work cooperatively with landowners and Kings County to adopt an alignment that is truly the least impactive alternative.**

Sincerely,

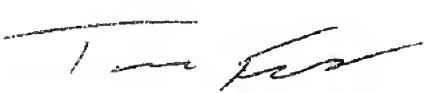


Aaron Fukuda

To: Chairman Dan Richard and the California high Speed Rail Authority,

It should be no surprise to the authority and to Chairman Richard that I write to you once again showing concern and disgust. I show concern towards my fellow Kings County citizens that have received a notice of a rail alignment preference that will be given by the staff at the next meeting on November 7th. The concern is that Kings County citizens will not have the ability to travel to Sacramento to voice their concerns as they were led to believe the issues would be brought up at a meeting set up for the 15th of November. I know people, like me, have work or other activities that would not allow them to be present at the board meeting. Understanding that it was the 15th, and knowing that our family is all in on this fight I had the 15th free to travel to Sacramento to voice my disgust in the game you are playing with the livelihoods of Kings County residents. But my disgust does not end with the games you are playing with the alignment preferences. I am disgusted that you have not taken into consideration the people you are going to be hurt the most, the landowners and the communities. If you had showed any consideration at all, you would have held your board meeting at a location in the area you are going through, Kings County. By having a Kings County or Central Valley board meeting it would allow the area that is being affected to be represented and heard. Since you had not considered having your meeting in Kings County, then the least you could have done was set up a remote location for people to gather and give public comment by Skype or by conference call. Technologies that an organization spending hundreds of millions of dollars should be able to provide. The remote location was suggested by CCHSRA and was denied. So I see the outreach to the communities involved has not changed at all. So like I said before, it should be no surprise that I write you once again with concern and disgust.

With great concern and disgust,



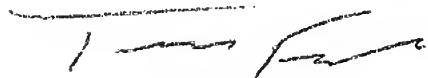
Todd Fukuda
[REDACTED]

To: Chairman Dan Richard and the California high Speed Rail (Abuse Of)Authority,

This would have been my public comment if I attended a board meeting on the 15th of November

I am frustrated as hell to put it nicely, If I could express more freely I would use more choice words. I do not have any property in the alignment and I cannot imagine what landowners in the alignments both West and East are going through. If I had property in the alignment I assume I would be using those choice words. So what is my involvement that would allow me to feel and understand the frustration? I am part of CCHSRA, my brother is in the alignment, I have friends in the alignment both East and West, and I do contract work in fields that are in the alignment both East and West. So what has angered and frustrated me is the game the authority and the staff have played with the lives of Kings County residents and farmers. The authority and staff has showed a lack of concern for the stress they have placed on landowners that have a potential of being obliterated. First I-5, then Hwy 99, then the West, then the East, then a new West, then back to the East. It is apparent that you have wanted to haphazardly meet your requirements of having alternatives and fully exercising the use of both alignment alternatives. It is also apparent you have attempted to splinter the Kings County by developing a division between the West and East sides of Hanford, which you have not. It is also evident you have not taken into consideration the landowner as you freely wave a wand and one day a person's property is in the alignment, the next it's not, and a month later it is back in the alignment. I assume the authority and staff does not know what it is like, the stress and the emotions a landowner faces as he learns his property and livelihood is in danger of being taken by the state. If so I would assume the authority and staff wouldn't have played the games you have for the past two years. So I ask Chairman Richard to live up to what he is claiming in the media, a new and improved authority. Step one would be stop playing games. STOP PLAYING GAMES!!!

Someone who is fed up with the California High Speed Rail (Abuse of)Authority,



Todd Fukuda



November 5, 2013

Mr. Dan Richard
Chairman
California High Speed Rail Board
770 L Street, Suite 800
Sacramento, CA 95814

Chairman and Board Members:

It is now 24 months since November of 2011 that I have tried to find out the impact to our property on the Hanford western alignment. The front of the property is to be impacted by the Grangeville underpass that intersects with the rails that go up our lane. This results in a total closure to the only entrance and exit to our property.

On September 26, 2013, at the Chinatown Revitalization meeting with the California Rail Authority, I again addressed the need for information to Diana Gomez, Project Manager, who stated she would return a phone call and even offered to come to our property to discuss the issues. No phone call ever happened.

Finally on October 16, 2013 I received a phone call from the Public Outreach Specialist Benjamin Camarena. I stated I was requesting the information regarding the total impact to our property. The following is the summary of the conversation:

- **Mr. Camarena did not know the impact to our property or our area as was looking at a Google Earth Map and did not have High Speed Rail map in front of him.**
- **Mr. Camarena did not want to give out any information requested stating environmental and area studies were not completed.**
- **Mr. Camarena stated the Authority finalized 2 days prior to the phone call that**

the decision for the Hanford alignment would be decided on November 15, 2013 at the Sacramento Board meeting.

- When I asked how the alignment decision could be ~~made~~ without the EIR/EIS completed and approved, I was given ~~with~~ no reply.
- No information was available for the dimensions of the underpass or the rail impact for our property or that of our neighbor's. I was told to wait until after the November 15 Board meeting to be able to have information.
- At the request for a map of our involvement, I was told to go to the CAHSR website which I decline as is not user friendly. He offered to send only our property map.
- It was stressed that Mr. Camarena would be the person to be the one to talk with for answers as the construction plans only show 15% of details for the 'build as it goes' project passed on to the construction contractors.

SUMMARY: After numerous contacts with personnel of the California High Speed Rail Authority, there are NO ANSWERS 24 months later for the property owner as to the actual impact of the California High Speed Rail Project. **It is very blatant that the California High Speed Rail Authority gives only vague manipulative statements. It is painfully obvious that the California High Speed Rail Authority displays great disdain for honest communication while giving definite disregard and disrespect for the property, business and home owner.**

After much flip flopping from west to east, the eastern alignment is again slated to be chosen for Hanford. The many distasteful encounters with the Authority leave me

in great fear for the horrendous impacts to every resident, property, business and home owner in Kings County regardless of which alignment. The hard working men and women of Kings County are privileged to manifest high integrity and commonsense with which to see through the scamming platitudes in the dealings with the California High Speed Rail Authority.

Respectfully submitted,



Carol Walters





Aaron Fukuda [REDACTED]

Board meeting date

1 message

karen stout <[REDACTED]>
Reply-To: karen stout <[REDACTED]>
To: [REDACTED] <[REDACTED]>

Tue, Nov 5, 2013 at 4:12 PM

California High Speed Rail Authority:

I was glad been I heard you might hold your board meeting Nov. 15, 2013. I have a conflict that will not allow me to attend Nov. 7, 2013. I was hoping you would hold your board meeting after the Nov. 8, 2013 Remedy Hearing of the Toss/Fukuda/Kings County Proposition 1A lawsuit. I was planning to speak.

Then I could have spoke Nov. 7, 2013 if citizens in the Hanford area were given a live feed.

You ask for public input, but you do not make it accusable for our voices to be heard. I think you just want uninformed people to think you want outside input, but really do not want to give us a voice.

Sincerely,

Karen J. Stout
Stout Farms
Kings County





SAN JOAQUIN COUNTY
HISPANIC
CHAMBER of COMMERCE

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Community Bank of San
Joaquin

Sylvester Aguilar
President- Elect
Bank of the West

Bob Gutierrez/Secretary
Food 4 Less/ Rancho San
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Ambit Energy

Thom Sanchez
Waste Management

Mario Eguiluz (Ex Oficio)
Comerciantes Unidos

Chief Executive Officer
Brenna Butler Garcia

November 5, 2013

California High-Speed Rail Authority Board
Sacramento City Council Chambers
Sacramento City Hall 915 I Street
Sacramento, CA 95814

Re: CA HSE Contracting Opportunities

Members of the Board:

California's High Speed Rail project has been a source of major interest by our constituency at the San Joaquin County Hispanic Chamber of Commerce. We view this as an opportunity to promote local businesses and create jobs that will support our local economies. One of the biggest opportunities lies in the upgrading of many of our existing feeder lines that will support the High Speed Rail project once it is online, but currently continue to provide travel routes for the central valley to the bay area and other parts of the state.

With the development of both the HSR component and the upgraded systems, job seekers and local businesses look forward to participating in the bid process and the job creation. We will continue to support the delivery of system upgrades and High Speed Rail through such events that our chamber hosts annually like the Annual Procurement Expo, Job Expo, Business Forecast Conference and through our monthly publication that is distributed regionally.

Thank you for the opportunity to show our support as this process moves forward in creating opportunities for our constituency at the San Joaquin County Hispanic Chamber of Commerce.

Sincerely,

Brenna Butler Garcia
Chief Executive Officer

SAN JOAQUIN COUNTY
HISPANIC
CHAMBER of COMMERCE
7500 West Lane, Suite 111
Stockton, CA 95210

OFFICE OF THE
KINGS COUNTY COUNSEL



Kings Government Center
1400 West Lacey Boulevard,
Building No. 4
Hanford, CA 93230
(559) 852-2445
Fax No.: (559) 584-0865

COLLEEN CARLSON
County Counsel
Deputies:
CARRIE R. WOOLLEY
DIANE WALKER
JULIANA F. GMUR
ERIK D. KAEDING
RISÉ A. DONLON

November 7, 2013

Hand-Delivered

To: California High Speed Rail Authority Board
From: Colleen Carlson, County Counsel for Kings County
Re: Comments to be included in the record of your meeting

Good morning Chairman Richard and board members;

My name is Colleen Carlson. I serve as County Counsel to the County of Kings.

Before I begin my comments, I wanted to congratulate the Central Valley Regional Director, Diana Gomez, on receipt of the Society of Hispanic Professional Engineer's Jamie Oaxaca Award.

I, along with many others from Kings County awoke early and traveled many hours for the privilege of speaking here. It is my hope that you will extend us the courtesy of a little more than 90 seconds.

I urge you to re-think your approach to the Central Valley, the timing of your actions, and to revisit well-documented unfinished business in Kings County.

The County has growing health, safety and economic concerns, and fears unaddressed damage.

My comments today are about irony – the opposite of what one typically expects:

Over the past three years you have flip flopped three times on a preferred alignment through Kings County: First east, then west, now east again. What has changed since April that you didn't know when you first went east over the objection of US EPA and Army Corps? Do you understand that your actions and inactions impact lives? You have impacted the ability of farms and dairies to get loans. You have impacted business operations and decision making.

Mr. Chairman, when you met with us in June, you claimed to essentially neutralize your staff's April recommendation so that we could work in good faith without a black cloud hanging over our heads. Without another word from you or your staff since, we learn from Craig Schmidt that you are again going east because, and I quote, "it is more convenient for travelers" in the Visalia-Tulare-Kings area. To add insult to injury, rather than hold this meeting in the place most affected, you hold this meeting in SACRAMENTO and refuse to have a satellite meeting place in Kings County to allow the hard working concerned citizens a chance to participate. We know you met with Visalia the same day you professed to be meeting in good faith with us. It appears you have flip flopped again based on politics – not the environment. I wonder what EPA and Army Corps will think.

CEQA Section 21000.1 requires public agencies to conduct state projects "subject to the same level of review and consideration under [CEQA] as that of private projects required to be approved by public agencies. The Authority has spent 17 years and hundreds of millions of dollars studying the environmental impacts of its high speed rail project, only to recently argue in court that Prop. 1A does not require

compliance with CEQA. ... Irony. I note, despite your staff's agenda footnote, that Page 1-2 of the Programmatic EIR/EIS adopted by your board in 2005 indicates: "[t]he proposed HST system is subject to environmental review under CEQA, and the Authority is both the project sponsor and lead agency for CEQA compliance."

The Authority recently vehemently argued to Judge Kinney that Prop. 1A bond validation was imperative because those funds are urgently needed to begin project construction; then argued to the same judge a couple weeks later in a different but related case that it does not need Prop. 1A funds because other state funds can be used.... Irony.

A recent Authority press release gives you, Mr. Chairman, accolades for the "strong partnerships [you forged] with local governments", but you refuse to do so with Kings County. ...Irony.

Since early 2011, the Authority has argued it is not required to coordinate the details of 30 miles of the spine of its project with Kings County; yet Gregg Albright, your former Acting Director of Planning and current employee of consultant Parsons Brinkerhoff, is quoted in August, 2013 as indicating "**Coordination is key**" to building a better California and high speed rail project, explaining "**it has to be done locally and then build up... .**" We were right all along, yet ignored or patronized. ... Irony.

You provided millions of dollars to Fresno to our north, and worked diligently with them to enhance existing transportation corridors along Highway 99, and are working with Shafter and big oil to our south to completely re-route the southernmost portion of the Fresno to Bakersfield alignment in order to continue on an existing transportation corridor; but then you slice right through the middle of protected farmland, away from existing corridors, in desecration of our General Plan to gain speed on the backs of Kings County and its hard working, food producing farmers. ... Irony.

Prop. 1A supports transit oriented development and existing transportation corridors. The BNSF, an existing corridor, veers away from Fresno and Highway 99 and travels directly through the middle of

Hanford in Kings County where there is a train station, bus station, and transit hub, but you choose farmland instead.... Irony

Visalia has offered free land for a station near its airport situated at the hub of two major highways and the UP railroad corridor, and you indicate using that route would take too much farmland. ...Irony.

You explain to the people of Kings County that the Hwy 99 route is not ideal because it curves too much, yet you zig and zag in and out of farmland and under major power lines to use Kings County. ... irony. Also see attached map containing your proposed route imposed over Highway 99. Your explanation fails.

In 2011, your people told Kings County it is “too late to change”, but have since released two different draft versions of the environmental document ignoring Kings County’s well documented concerns; yet you are willing to accommodate big oil and little Shafter. ...Irony.

I note that your blended approach is “highly acclaimed” according to a recent Authority press release, but a superior court judge ruled in August, 2013, that such funding plan and approach is an abuse of discretion that does not comply with Prop. 1A. ...Irony.

I recall a recent question from Senator Lowenthal to Chairman Richard as follows: Chairman “for all this money, ... we [are] going to get genuine high speed rail” [right]? Response: “no, but you are going to get a lot.” Irony?

Kings County reviews progress reports and, as a result, has many safety concerns. For example, Progress Report 41 from June contains a comment that the Fresno-Bakersfield section draft design submittal does not meet the “Alignment Design Standard for High-Speed Train Operation TM 2.1.2”. It further indicates that there are “many quality control issues.” The County is concerned with the health, safety and welfare of its citizens, and it’s Board of Supervisors most certainly has the power to protect.

California High Speed Rail Authority Board

November 7, 2013

Page 5 of 5

Progress Report 39 indicates that over and under passes can't be designed without coordination with Counties and Cities regarding road speed, because speed impacts the dimension and safety. I know with certainty no road speed coordination has occurred with Kings County.

In closing, I would urge you to delay your vote -- not sneak these prolonged actions through during the holiday season; get your environmental ducks in a row; revisit reasonable alternatives outside of Kings County and along existing corridors that were eliminated for the wrong reasons; or coordinate in good faith with Kings County to resolve its legitimate concerns like any other developer would be required to do in order to receive project approval.

Lastly, I would like to remind you Mr. Chairman of the many promises that either you or your staff have not carried out, as outlined in my October 30, 2013 notice to you, and of your June 4, 2013 promise directly to the Kings County Board of Supervisors, that is: "But I will make this promise to you sitting right here on the record, which is I won't vote to adopt an EIR or EIS for this alignment if you're telling me that the data on which we're making that decision is still not consistent with where the county is." We are telling you it is not consistent.

Thank you.

Sincerely,



Colleen Carlson

Enclosures:

1. October 30, 2013 e-mail at 4:47 PM to Diana Gomez, Chairman Richard, and High Speed Rail Authority Board Members
2. Map of proposed route imposed over Highway 99

Carlson, Colleen

From: Carlson, Colleen
Sent: Wednesday, October 30, 2013 4:47 PM
To: Diana Gomez (dgomez@hsr.ca.gov); drichard@hsr.ca.gov; [REDACTED]
Cc: 'boardmembers@hsr.ca.gov'
Subject: YOU ARE ON NOTICE
Attachments: #9 06-04-2013 County-HSR coordination transcript.pdf; 04-02-13 SIGNED letter Verboon to Richard.pdf; 02-07-13 SIGNED letter Verboon to Richard.pdf; 06-27-12 SIGNED Letter Spikes to Richard re Absurd Responses.pdf; 04-27-12 HSRs attempt to answer Countys 60 questions.pdf

Dear Ms. Gomez and Chairman Richard and Board Members:

YOU ARE AGAIN ON NOTICE that you have not done as promised. The list of outstanding commitments is long.

JUNE 4, 2013

The short list of outstanding/unaddressed issues relating only to our June 4, 2013 meeting is included again [below] for your reference.

Mr. Richard, I feel it important to remind you of your specific PROMISE which I am quoting from the 6-4-13 transcript of our meeting, recorded by a certified court reporter as follows:

"But I will make this promise to you sitting right here on the record, which is I won't vote to adopt an EIR or EIS for this alignment if you're telling me that the data on which we're making that decision is still not consistent with where the county is." (Pg. 14 – see attached)

This reminder is particularly important in light of your Board's 11-7-13 agenda Item No. 2: "CONSIDERATION OF THE STAFF RECOMMENDED PREFERRED ALIGNMENT FOR THE FRESNO TO BAKERSFIELD PROJECT SECTION". It is difficult to imagine how you can proceed with such without addressing the articulate, specific concerns of Kings County, especially after your promise. It is also difficult to understand why not one attempt has been made since the June 4, 2013 meeting, especially after sending the very specific reminder list below.

I can honestly say that I have never worked with a group such as the Authority, that has an interesting and important project, that so consistently meets, promises, then drops the ball. It is difficult to know what you expect us to think or expect us to behave, but we are definitely disappointed. We have spent valuable time explaining and articulating only to be consistently overlooked and ignored.

It is difficult to keep things professional when your organization behaves so unprofessionally. It is not our mission to embarrass, but you most certainly should be. This is the biggest transit project in California's history yet you are consistently getting the cart before the horse. It is not our mission to get in the way of your project. This project belongs to all Californians and should be a model, not a chronicle of what not to do. We are trying to protect the County and its communities and all taxpayers from the clear ineptness you consistently portray. That ineptness will translate directly to destruction in our community and an extraordinary burden on all taxpayers. That is not acceptable here and should not be anywhere. We will not stop insisting on quality and accountability.

Below is the list that evolved from the June 4, 2013 transcript attached and was forwarded to Diana Gomez and Chairman Richard on October 8, 2013:

THE PRIOR LIST OF 6-4-13 UNRESOLVED MATTERS AND FOLLOW-UP PROMISES:

"Good afternoon Diana,

I had a chance to speak with Chairman Verboon regarding your e-mail below. In response, he requested I review the transcript of the June 4, 2013 meeting and respond to you directly regarding a host of outstanding issues from that meeting alone. Those include the following:

1. Maps: On June 4, 2013, you left a large scale map for the western alignment, but the consultants did not have the large scale map for the eastern alignment. It was indicated at that time that we would receive it. We have not received. The purpose was so that both could be displayed and the community could review and provide comments either to the County or directly to you. Have you received any comments on the Western bypass displayed? The idea was to discuss circulation, safety and other issues that may be triggered.
2. Electronic Shape Files Update: At the time of the meeting, it was agreed that an update to the shape files we received from the Authority's consultants earlier would be received after the meeting. We did not receive the shape file update promised. Instead, we received a message – I believe through Cheryl Lehn at URS – that it would not be provided.
3. Hwy 99/I-99: The issue of upgrading Hwy 99 to an Interstate was discussed. A question was posed whether the Authority had considered coordinating with Caltrans on this and to incorporate the HSR alignment into such project. Mr. Richard indicated: "I don't know the answer to that. Our CEO, Mr. Morales, was the CalTrans director, so I'll ask him." We have not received a response.
4. Dairy Permit Streamlining: Mr. Pentorelli indicated a main issue was whether or not new crop plans had to be prepared. He said it wasn't really an issue unless the nitrogen level changed. A commenter at the meeting actually pointed out that of course the ratio will change if you export the same level of effluent onto less land because land has been taken for right of way. The issue remains unaddressed. Additionally, Mr. Gatzka reminded that all of the issues the County would have to address for dairy re-permitting were included in a prior letter that are already in staffs hands and he would be happy to provide it again. He has not been asked to provide it again and we have received no follow-up whatsoever on this or any issue raised during the June 4, 2013 meeting. Mr. Gatzka explained that while the County's 2002 Dairy Element does have a streamlined permitting process, as long as the project meets certain standards for nitrate wastewater distribution and cattle numbers, once that gets disrupted, that permitting process has to get relooked at.
5. Dairy Permit Streamlining #2 – Easements: The question was raised and assurances made that the Authority would follow up on whether the Authority will actually allow an easement under or over its right of way to accommodate a pipeline for continued distribution of wastewater as to not disrupt an operation bisected by the track. You may recall that Chairman Richard indicated: "I will make this promise to you sitting right here on the record, which is I won't vote to adopt and EIR or EIS for this alignment if you're telling me that the data on which we're making that decision is still not consistent with where the county is. So we would at least have that conversation to try to get it as harmonized as much as possible so that what I have before me and my colleagues as decision makers is a full understanding of this. Our Ag Commissioner added that this must be resolved. The pipes are sometimes used for irrigation and sometimes effluent is injected into the pipeline. I clarified that the worry is the time in between. What happens while the Right of Way Agent and property owner are negotiating and the Authority has no fixed process in place. The farmer could lose his crops and the consequences could hugely affect the farmer's operations. We have heard nothing more on this issue.
6. Well Inventory: Mr. Gatzka pointed out and our comments to the EIR/EIS include the request more than a year ago that the Authority inventory the wells that will be disrupted or impacted directly. Has this been done? Mr. Spikes indicated that this can't be an entirely unique situation and you must have some process developed for the farmland you are in the process of acquiring in Madera and some in Fresno that is not along existing roads. Mr. Gatzka further explained this issue and indicated that if each situation is left to the design-build

contractor to remedy, it could really slow the process. Instead, a process should be developed now that incorporates mitigation procedures. Dan Richard replied: "I'm making a note to myself because I want to follow up on this, which is there's a question of the efficiency of the design. If we say to the design build contractor understand that there's going to be a baseline of x number of under crossings that are going to have to be dug through over this wide length of miles, we don't exactly know where they are yet because that will be part of the curing and mitigation process. But you should build into your – your bid and your thinking those are going to be there. I think what Mr. Gatzka is getting at is it should be more than just the -- just the right of way acquisition process, there ought to be some design standards, if you will, that address on a generic basis how we're going to..." address this. Mr. Richard continued that he believed that the Authority may already have some documents that talk about generic strategies and indicated "we'll provide those as well to the county." We have not received any such documents.

7. Loss of Amtrak Stations: Supervisor Valle expressed concern for the loss of stations in Hanford and Corcoran when the new Authority line is built. Mr. Richard indicated that it is not the Authority's intention to orphan those stations and mentioned that he has been talking with Secretary Kelly at the Transportation Agency about this very issue. No follow-up information has been provided to the County on this issue.
8. Reimbursement Agreement: The County finds many issues with the Reimbursement Agreement, but is not willing to enter into an Agreement with the Authority while it is in litigation against the Authority.
9. Water Levels on Hanford West Bypass: It has come to our attention from reviewing URS technical memos to the Board that it has released a technical memo on the groundwater levels in the vicinity of the western bypass. The County would like a copy of that memo please.

Conclusion: There is no reason to meet at this time. Essentially everything you, Mr. Richard and the consultants indicated you would follow up on remains outstanding after three more months. Until those items are addressed, there is no point. We look forward to you providing the information promised."

APRIL 2, 2013

I have attached hereto an April 2, 2013 letter from our Board Chairman to Mr. Richard. It is another list of unmet commitments. The details are included in the letter, but the short list consists of the following:

- Project triggered non-compliance with AB 32
- Outstanding Ag Issues
- Foreseeable Pesticide Drift
- Circulation Issues
- Implications of AB 1779

FEBRUARY 7, 2013

I have attached hereto a February 7, 2013 letter from our Board Chairman to Mr. Richard. It is another reminder of all the issues that have not been addressed.

JUNE 27, 2012

I have attached hereto a June 27, 2012 letter from our County Administrative Officer to Mr. Richard. It contains lists of prior issues that were not addressed. Just a short list includes the following:

- AB 32
- Dairy Permitting
- Existing Conditions
- Pesticide Drift
- Mitigation Measures
- Outstanding Ag Issues
- And lists of questions re prior outstanding, unaddressed questions.

APRIL 27, 2012

I have attached hereto an April 27, 2012 letter from the Authority. I am told that Mr. Richard recently indicated to Mr. Oliveira in a board meeting and follow-up correspondence that all of Kings County's questions have been answered. After you review the responses, I am sure you will agree that they are responses, but not necessarily resolution and very poor "answers". A few examples:

SECURITY ISSUES:

- Q: Who will be responsible for Public Safety relating to the project? A: "Although it has not been formally decided who will be responsible for public safety during construction and operation, we anticipate that those decisions may fall in line with similar existing arrangements." **WHAT DOES THIS MEAN?**
- A: "A Threat and vulnerability analysis will be developed....". **WHEN? DOES IT EXIST NOW?**
- Q: What about security against terrorism? A: the Federal Railroad Authority has determined the Transportation Security Administration "has jurisdiction over all security matters including HST" and has a "dedicated deputy general manager assigned to the project ... but TSA currently has no established regulations ... but is working to develop..." **WHEN? DOES IT EXIST NOW AS YOU BEGIN CONSTRUCTION?**
- Q: What is your plan to police the project? A: "...the Authority is in the process of evaluating types of policing methods and services that potentially could be employed..." **HAS THE AUTHORITY FIGURED THIS OUT? WHAT IS THE PLAN?**

PEST QUARANTINE ISSUES:

- Q: What is the authority doing about potential pest quarantine issues? A: We do not anticipate a problem, but if there is one, we "would manage in close cooperation with Kings County." ... "the Authority plans to work closely with the County..." . **IS THERE A PLAN?**

ECONOMIC LOSS TO COUNTY AS A RESULT OF PROJECT

- Q: How do you intend to address the economic impacts of the project on Kings County. A: "To understand these effects, and eventually mitigate them to the greatest extent possible, the Authority has endeavored to carefully consider the economic and social effects of the HST and to carefully determine whether they will lead to secondary impacts on the environment. The Authority believes that Kings County officials will be our best resource in determining these impacts as we move forward." **IS THIS AN ANSWER? IT PROVIDES NO REFERENCE TO A STUDY. IT INDICATES KINGS COUNTY WILL PROVIDE THE INFORMATION IT IS ASKING FOR.**

LACK OF PROJECT DETAILS:

- Q: The County's planning director indicated that the lack of project detail makes it difficult to evaluate the impacts to the County and expressed frustration with this. A: "CHSRA understands the frustrations that can arise...especially on a project of this magnitude...We look forward to continuing our collaborative discussion with

you on a detailed level as the project advances." THIS HAS NOT HAPPENED. WHERE IS THE ANSWER? WHEN WILL THIS OCCUR IF IT HAS NOT FOR THE PAST TWO AND A HALF YEARS THAT WE HAVE BEEN ASKING?

ROAD CLOSURES:

- Q: how many road closures will result from the project and how will ag and public safety be able to continue in light of the closures? A: there will be four closures. Staggered construction is the plan. WHAT?

Essentially, the "answers" are that we will work with you – don't worry. That is not good enough, particularly because every time you have promised to work with Kings County it NEVER happens. Unfortunately, I could keep going, but I am growing weary that it makes no difference what we write. It only grows the records of wrongs committed against the County. This is not acceptable. Please address our legitimate, repeated, ongoing concerns.

Sincerely,

Colleen Carlson
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County of Kings
1400 W. Lacey Blvd., Building #4
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From: Gomez, Diana@HSR [<mailto:Diana.Gomez@hsr.ca.gov>]
Sent: Wednesday, October 02, 2013 12:43 PM
To: Verboon, Doug; Carlson, Colleen
Subject: Kings County follow up

Supervisor Verboon,

It's been over 3 months since we met and I wanted to follow up on a couple of items:

- We have not received any comments on the reimbursable agreement and we would like to finalize so we can ensure the County is getting reimbursed for their reviews.
- Would you like to schedule another meeting. We can provide an update on the project and our work with impacted property owners.
- We also be following up with a letter regarding our permit requests that have been denied by the County and would like to discuss this issue.

Also survey notices will be mailed to impacted property owners within the boundaries of the Hanford East alignment. Boundary surveys are one of the first steps in the right-of-way process. These surveys establish property boundaries to assess potential impacts and inform

appraisal mapping. The survey crews do not collect any information about the property other than verifying legal boundaries.

Look forward to hearing from you hope all is well.

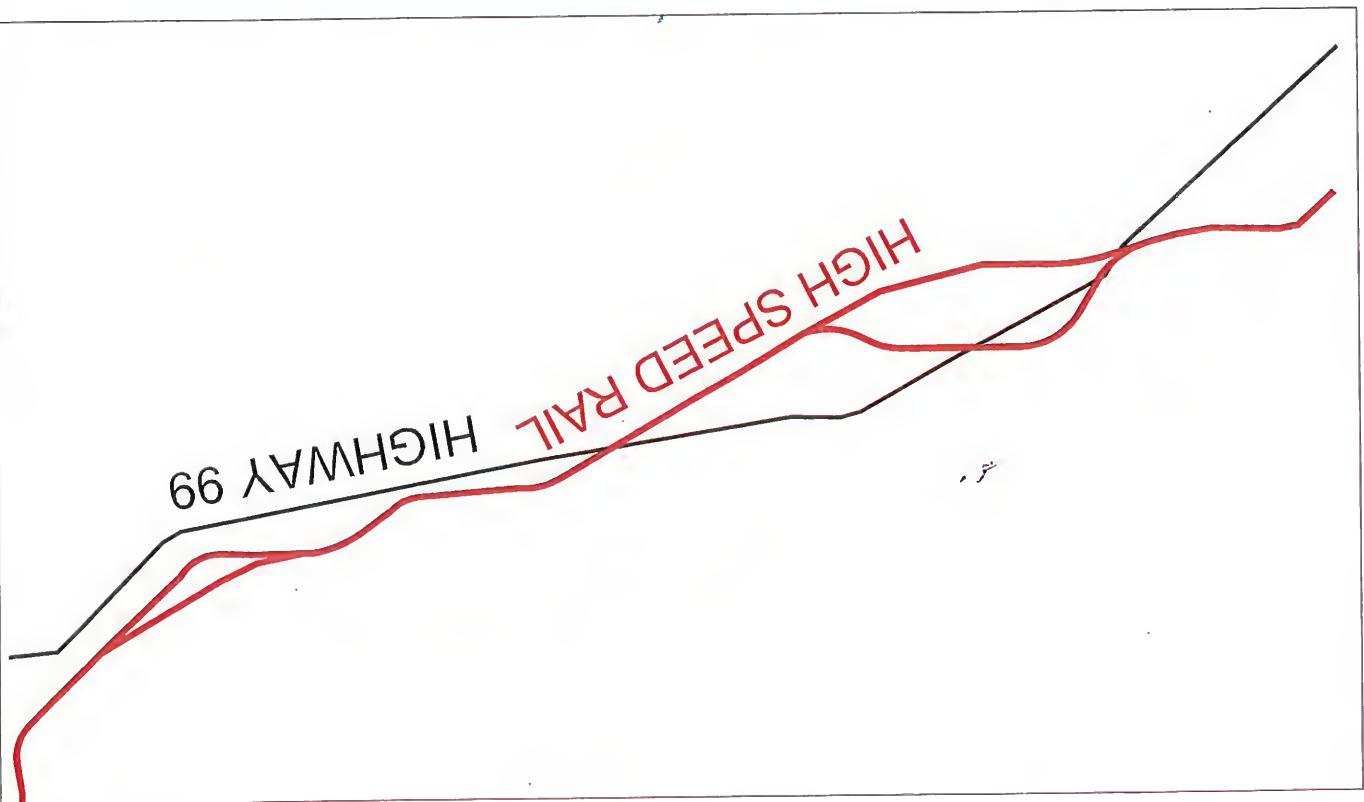
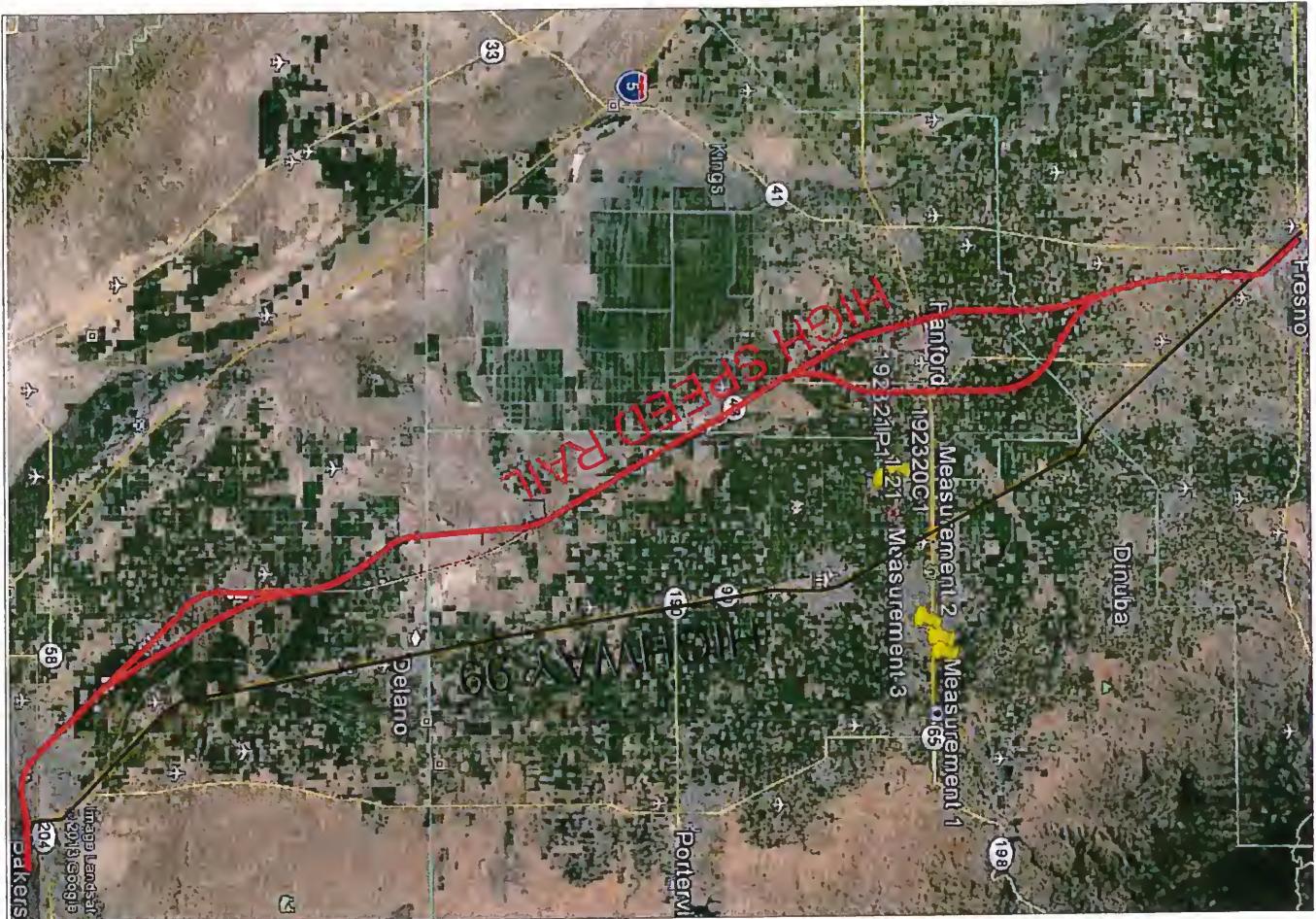
Diana Gomez, PE, PMP

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Which one has more curves, Highway 99
or High Speed Rail?





DOUG VERBOON

Supervisor
District 3

BOARD OF SUPERVISORS
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November 7, 2013

To: California High Speed Rail Authority Board
From: Supervisor Doug Verboon, Kings County Board of Supervisors
Re: Comments for CHSRA Board Meeting.

Good Morning, I am Doug Verboon. I am the Chairman of the Kings County Board of Supervisors and a 3rd generation farmer of Gold Top Ranch located in Hanford.

I am here to present comments on the County's behalf, along with our local Kings County Farm Bureau, and a group of other people that formed the California Citizens for High Speed Rail Accountability. We have travelled a long way to speak with you and I hope you will afford us a little extra consideration to hear our concerns.

I am hand delivering a letter prepared by our legal counsel Douglas Carstens. It is the second part of a set of comments we started before your last meeting down in Los Angeles last month. Now we are up here to see you in Sacramento. We sure wish you would have these hearings closer to where we are- and where you are proposing to build this rail line. Kings County is on the opposite side of the Authority in two lawsuits - one over Proposition 1A and the other over the Authority seeking validation of its bond funding.

But today, we are here to ask you not to make the mistake of creating more momentum for a particular alignment through Kings County until you, and your staff, has really sat down and coordinated with us. You have to get your environmental documents right, and make sure everyone has a good chance to look them over- and I don't mean during the holidays coming up. Real people are facing real impacts from what you are planning- impacts to their lives and livelihoods, and those of their families.

There is plenty of new information, and recent changes since you put out a revised EIR last year. Your staff's recommendation of the Hanford East Alignment is the latest in a series of major last minute changes or new discoveries that people have to have the time to look at and think about. The letters we and others are putting in talk about new geotechnical information, shallow groundwater, land subsidence, and compressible soils; design changes like elevated tracks over the three channels of the Kings River; and power lines and substations that are not even identified in the review documents.

There are better alternatives missing that we still don't have a satisfactory explanation for, the SR-99 and I-5 Corridors have advantages and disadvantages of their own, but those should be laid out side-by-side with the alignment you are narrowing in on. The view from Kings County is that either of those major transportation Corridors would make a lot more sense than the plan your staff currently prefers. We are asking you to put the project on a firm footing that makes sense to people on the outside looking in- not just to you and your staff. Answer the questions we have been posing all along, and coordinate your efforts with us. If the project is going to be done, it has to be done right.

CHATTEEN-BROWN & CARSTENS
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MONTEREY, CALIFORNIA 93254
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November 6, 2013

California High Speed Rail Authority Board

Chairman Dan Richard and Honorable Board Members
c/o Mr. Mark McLoughlin
770 "L" Street, Suite 800
Sacramento, CA 95814

Federal Railroad Administration
Joseph C. Szabo, Administrator
c/o Mr. David Valenstein
MS-20, W38-303
1200 New Jersey Avenue, SE
Washington, DC 20590

Surface Transportation Board

Chairman Elliot and Honorable Board Members
395 E Street, SW
Washington, DC 20423

Mr. Horace Greczniel
Associate Director for NEPA Oversight
Council on Environmental Quality
Executive Office of the President
722 Jackson Place N.W.
Washington D.C. 20503

RE: Supplement to October 3 2013 Letter Re High Speed Train System
Programmatic EIR/EIS and Fresno-Bakersfield Revised Draft EIR/EIS; and
Coordination of Project Planning and Environmental Review

Chairman Richard Elliot, Administrator Szabo, Director Greczniel and
Honorable Board Members:

Our firm represents Citizens for California High Speed Rail Accountability
(CCHSRA), Kings County, and the Kings County Farm Bureau. We wrote to you on
October 3, 2013 about our concern that the Revised Draft Environmental Impact
Report/Supplemental Draft Environmental Impact Statement: Fresno to Bakersfield
(Fresno-Bakersfield Revised Draft EIR/EIS) of the California High Speed Rail Authority
(Authority) describes a project with different alignments and features than is currently

CHSRA, FRA, STB, CEQ
November 6, 2013
Page 2 of 20

proposed for the High Speed Train (HST) system. As previously explained, major modifications to the project and changes in circumstances have occurred since the revised draft EIR/EIS was released in July 2012. The final version of this EIR/EIS is reportedly scheduled for release in January 2014.

We described the significant changes in the project and the circumstances including the contemplated elevated rail system over the Kings River, a trashed alignment around 13th Avenue in Hanford, and the new information about potentially significant geotechnical impacts that represent significant changes in the design and environmental impacts of this segment of the HST. Since that time, we have become aware of significant issues that further substantiate our view that the Fresno-Bakersfield Revised Draft EIR/EIS must be revised and recirculated.

After our previous letter had been delivered, we hoped an effort would be made to resolve or at least address the issues we raised; however no such effort has been made to date. We remain more than willing to discuss these concerns with your General Counsel, or any appropriate staff members you would designate.

We are also disappointed that, despite CCHSRA's reasonable request, the Authority has chosen not to make remote viewing locations available for its November 7, 2013 hearing at which a choice of a preferred alternative for the Fresno-Bakersfield alignment will be considered. Instead, the Authority is holding its hearing in Sacramento approximately 170 miles away from Fresno (and even further away from other portions of the proposed alignment). The lack of a satellite location hampers the ability of the public to participate in the Authority's proceedings. We based the request in part on the fact that incorrect information was delivered by phone by Authority staff member Camarena to Carol Waters of Carol Waters of CCHSRA that the alignment selection would take place on November 15th, thus leading many people to formulate their plans based on this anticipated date. Also, the courtesy of having remote satellite locations is extended to Authority Board members when they are unable to attend in person at Authority Board meetings.

As we previously stated, in accordance with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA) the Authority, the Federal Rail Administration (FRA), and the Surface Transportation Board (STB) must revise the Fresno-Bakersfield Revised Draft EIR/EIS for the Fresno to Bakersfield segment to reflect changes in design and newly identified significant impacts, and release the draft for public review. (40 C.F.R. § 1502.9 [NEPA]; Pub. Resources Code § 21092.1 [CEQA].) You should also prepare a supplemental programmatic system-wide EIR/EIS since the one approved in 2005 did not properly address at the program level alternatives and mitigation measures for impacts that are now apparent from further analysis. (40 C.F.R. § 1502.9 [NEPA]; Pub. Resources Code § 21092.1.)

Below we discuss how recently obtained information supports our prior request that you to revise, recirculate, and supplement the environmental review as appropriate, and that you coordinate with Kings County and other affected jurisdictions.

I. Changes In The Project's Circumstances, Its Design, and Feasible Alternatives Require Supplemental Environmental Review and Recirculation of Draft Documents.

A. NEPA and CEQA Require Revision of the Revised Draft EIS/EIR and Recirculation Because of Changes to the Project, New Information, and Changes in Circumstances Disclosing Significant Impacts.

We previously explained that under NEPA, federal agencies reviewing major federal actions must take a "hard look" at environmental consequences of the proposed project, and prepare an adequate draft EIS. (*Chatten-Brown & Carstens (CBC) Letter of October 3, 2013, p. 3*, citing *Kleppe v. Sierra Club* (1976) 427 U.S. 390, 410; *Marsh v. Oregon Natural Resources Council* (1989) 490 U.S. 360, 374.) CEQA also requires that EIRs provide a thorough investigation and adequate analysis of project impacts in which a public agency finds out and discloses all that it reasonably can about project impacts. (Tit. 14, Cal. Code Regs. §§ 15144 and 15151.) Under both NEPA and CEQA, when significant new facts emerge about a project or alternatives to it, or the circumstances in which it is proposed, the environmental review documents for it must be supplemented, if they have already been approved (40 C.F.R. § 1502.9 [NEPA]; Public Resources Code § 21166 [CEQA]), or recirculated if they have not yet been approved (40 C.F.R. § 1502.9 [NEPA]; Public Resources Code section 21092.1).

1. Project Management Oversight Documents Confirm the Significance of Changes That Have Occurred, Or Problems That Have Been Identified Internally But Not Publicized Since the Release of the Fresno-Bakersfield Draft EIR/EIS in July 2012.

Pursuant to the Public Records Act, Californians Advocating Responsible Rail

Design recently obtained Project Management Oversight (PMO) progress reports prepared by T.Y. Lin and shared them with our clients. These Progress Reports identified numerous issues that should have been made publicly available. Examples of how the Progress Reports helped identify problems possibly before they become intractable include the following:

a. PMO Report #38- February 2013

The PMO reported that the Regional Consultant submitted more than 40 changes to the Merced-Fresno section of the alignment. (PMO Progress Report #38, p. 8.) There is a discussion ongoing about the potential delays and potential litigation for changes

made without CEQA and/or NEPA review.

The RC submitted design change memoranda for four locations (Olive, Belmont, McKinley, & Golden State Boulevard) with analysis in Jan 2013. They received PMT/AG comments, which are now being addressed. Authority/PMT/AG need to consider schedule vs. litigation risks in determining level of detail in the analysis. Also need to consider litigation risk (i.e. newly affected parcels, and permitting/ National Historic Preservation Act Sec 106 requirements) when determining need for and timing of additional CEQA/NEPA review. PMT reviewing need for 40+ additional design changes.

(PMO Progress Report #38, p. 8.) The risk of future litigation could be reduced by providing the required amount of coordination with the public including local agencies. As matters stand now, the changes made to the Merced-Fresno alignment require that the EIR/EIS for the Merced-Fresno section be supplemented and recirculated for public review.

b. PMO Report #39- March 2013.

The PMO confirmed that the Authority has not finalized the "footprint" that is utilized to define the project. (Progress Report #39, p. 8.) Therefore the Authority has not properly described to the reader of the Fresno-Bakersfield EIR/EIS the project footprint in the Project Description. As reported by the PMO, only after the footprint is identified can various requirements be described:

These requirements include a 15-foot permanent easement on either side of viaduct and trench structures for maintenance, and access along embankments and cuttings. Based on agreements with the EMT, the permanent environmental footprint is being modified for the Final EIR/EIS; however, the later application of these new criteria has impacted the final delivery schedule for the environmental footprint. The RC is working to finalize the footprint, including engineering, ROW, and other environmental input.

(PMO Progress Report # 39, p. 8.) This confirms the insufficiency of the project description in the July 2012 version of the Fresno-Bakersfield EIR/EIS.

Furthermore, the project description is insufficient because the Authority has not clarified the road speed required by each county. (PMO Progress Report #39, p. 11.) The road speed will impact the dimensions and safety of many of the overpass and underpass structures.

Status of County Road 65 MPH requirement: PMT/HSR (Diana Gomez and staff) are in a process of meeting with all the cities and counties to negotiate a design

speed that is workable with the HSR alignment.
(PMO Progress Report # 39, p. 11.)

The Project Management Team (PMT) informed the Regional Consultant (RC) (which is URS in the Fresno-Bakersfield area) that design criteria in Technical Memorandum 2.1.2 was being revised to increase the distance between the end of a horizontal curve and the beginning of a vertical curve because “Segment lengths and attenuation time have a direct impact on rider comfort, a fundamental system consideration.” The impacts of not providing enough length between transitions would increase what could be considered a “roller-coaster effect” on the riders of the train. Increasing the lengths of times between transitions would mean adjustments in the alignment. Adjustments in the alignments could introduce new impacts, change existing impacts and require different and new mitigation measures. (PMO Progress Report #41, p. 8.) Whereas, failure to make any adjustments could impact the service level of the high speed train system with a likely outcome of slower trains and failure to meet travel time requirements.

We would also like to caution the Authority that ignoring compliance with internal technical specification adds a severe safety concern to the traveling public. With the recent tragedy in Spain, the Authority should take precautions to provide the safest and technically sound system given that Central Valley will require the greatest speeds (upwards of 220 mph) to accommodate to the “blended” approach in the northern and southern stretches of the system.

c. PMO Report # 40- April 2013.

The PMO reports that there is some confusion regarding coordination with the California Public Utilities Commission (CPUC). (PMO Report #40, p. 14.) We believe it is critical that the Authority coordinate with the CPUC to determine future energy demands on the system, however it is more critical to coordinate with the CPUC for design and safety reasons. This is highlighted in the Hanford East alignment, which currently is staff’s preferred alignment, where the tracks cross a set of high power electrical lines that are in alignment with 7 1/2 Avenue in Kings County. This topic is further discussed below.

d. PMO Report # 41- May/June 2013.

The Report indicates that the RC and the PMT reviewed roadway design changes that have the potential to result in new environmental impacts. (PMO Report #41, p. 9.) It was further stated that the RC and PMT have “incorporated these changes into the environmental footprint for the PER/EIS.” (PMO Report, p. 9.) This would indicate that new environmental impacts have been included in the Fresno-Bakersfield Revised Draft

EIR/EIS and will require further public review. There is a great risk that the Draft EIR/EIS could be introducing new significant impacts without public review, including review by local jurisdictions such as Kings County and the City of Hanford.

2. Overhead Electrical Powerline Issues Are a Significant Impact That Has Been Insufficiently Analyzed and Mitigated.

The staff’s recent identification of the Hanford East Alignment as the preferred alignment raises the serious issue that the siting of the High Speed Train System near and among high voltage overhead electrical power lines has not been adequately analyzed or mitigated.

The current design of the Hanford East alignment crosses a 115,000-Volt High-Voltage Transmission Line in several locations at an angle or in a perpendicular direction as it weaves in and out the power lines.² The High-Voltage Line is identified as the Kingsburg-Waukeen HV Transmission Line and runs north and south through eastern Kings County. This power line is owned and operated by PG&E and carries a large amount of the electrical supply up and down the Central Valley, supplying power to Fresno, Visalia, Hanford, Tulare, Bakersfield and many other small communities along the way.

Given that the track bed and the subsequent train facilities are approximately 35 feet above natural grade, the train will run directly into the power lines. Thus, they will have to be relocated or undergrounded. Also there are overpasses structures slated for approximately every mile along the Hanford East alignment. These overpasses are also approximately 35 feet above natural grade to the bottom of the overpass structure. This means that the overpasses will be directly within the high power lines at every mile. The Fresno-Bakersfield Revised Draft EIR/EIS states that any impacts due to relocation of power lines is not significant and that the inconvenience to residents and power users will be minimal. The problem is that there was no detailed discussion of what was impacted, how it was to be addressed and what the impacts would be. The reader has no way of making an informed evaluation if the impact would be minimal.

² Electromagnetic fields traveling too close to each other and in different directions potentially cause arcing failures. (http://en.wikipedia.org/wiki/Electromagnetic_interference); Federal Record of Decision California High-Speed Train System, November 18, 2005, p. 21]) If the current design of the HSR calls for 37-foot clearance above grade for necessary infrastructure with a 5,000-Volt HSR power transmission cable, is there enough clearance under the existing high voltage lines to avoid arching and flaming failure? For example, the HSR crosses under the HV lines at an angle between Idaho and Jackson Avenues in the City of Hanford.

Lastly, the Hanford East alignment station location places the high speed system directly adjacent to the power lines and the metal structures they are supported on. With the station track being approximately 40 feet above grade, the train will be at the same elevation of the power lines. The Draft EIR/EIS did not mention the safety concerns associated with high speed trains being adjacent to high voltage power lines, as significant headwind forces could be created by high speed trains. Nor does the Draft EIR/EIS discuss the potential for long-term impacts such as metal fatigue cause by the vibration impacts emanating from the high speed rail system. Lastly, there is no discussion of the impacts that construction poses near the power lines given the elevated viaduct in that location is directly adjacent to the power lines and there is very little room to construct the system while maintaining a safe distance away from the power lines.

The Fresno-Bakersfield Revised Draft EIR/EIS considers electrical substations to be "high risk". (Draft F-B EIR/EIS Page 3.16-11.) However, the Draft EIR/EIS does not identify the new Mascot Station located at the southwest corner of 7 1/2 Avenue and Grangeville Boulevard in the City of Hanford. This is a new SCE high power substation to serve the eastern section of Hanford that we have been informed cost \$25 million to construct and was completed recently. The new station also includes new power lines that parallel the Kingsburg-Watsonia 11.5KV lines. Therefore given the definitions identified in the Draft EIR/EIS, the public analyzed the Draft EIR/EIR with a "high risk" facility missing.

The California Public Utilities Commission (CPUC) regulates public electric utilities in California. General Order 131-D sets forth provisions that must be adhered to when public electric utilities construct any new electric generating plant or modify an existing electric-generating plant, substation, or electric transmission, power, or distribution line. The Project is also subject to CPUC General Order No. 95. This CPUC General Order Rule for Overhead Electric Line Construction formulates uniform requirements for overhead electrical line construction, including overhead catenary construction, the application of which will ensure adequate service and secure safety to persons engaged in the construction, maintenance, operation or use of overhead electrical lines and to the public in general. A Permit to Construct must be obtained from the CPUC, except when planned electrical facilities would be under 200 kilovolts (kV) and are part of a larger project that has undergone sufficient CEQA review.³ The requirement for this permit could add significantly (possibly years) to the construction time schedule and significant costs to the project budget.

³ The Fresno-Bakersfield Revised Draft EIR/EIS reports that thirty-three transmission and power lines owned by PG&E cross the BNSF Alternative corridor. (Draft EIR/EIS, p. 18.) Four additional transmission lines occur within proposed HST stations, one at the potential Kings/Tulare Regional Station, East Alternative and three at the Bakersfield Station. The EIR/EIS reports there are two substations in the study area.

booth in Kings County, one station owned by Southern California Edison approximately 900 feet north of Front Street and a second substation, owned by PG&E, at the northwestern corner of the intersection of Kent Avenue and South 11th Avenue. However, the identification of electrical facilities does not identify what exact lines are impacted and how. The Mascot Station is omitted altogether. The EIR/EIS does not mention the impacts associated with overpasses and other facilities that may interfere with the transmission lines. For example, overpasses that will intersect the power lines with the crest of the overpass very close to the power lines.³ The analysis of the newly created proximity of planned overpasses and power lines must consider that specialized farm equipment that is taller and wider than routine highway traffic may use the overpasses and underpasses. For example, a 15 foot clearance is needed for a cotton picker and a combine.

The Fresno-Bakersfield Revised Draft EIR/EIS in a section labeled "Impact PU&EFS – Conflicts with Existing Utilities" states that many utilities are within or cross the study area for the proposed HST and associated facilities, as listed in Tables 3-6-14 and 3-6-15 for high-risk and low-risk utilities, respectively. (F-B Draft EIR/EIS, p. 51.) The project would not be compatible with most of these existing utilities so agreements would have to be reached to relocate them or place them underground. However, the EIR/EIS concludes the effect of the project on utility providers and their customers would have negligible intensity under NEPA, and impacts would be less than significant under CEQA. (F-B Draft EIR/EIS, p. 51.) The EIR/EIS states that if utilities cannot be relocated or modified within the construction footprint defined in Chapter 2, Alternatives, supplemental environmental analysis would be conducted, if necessary. However, there is no valid reason the ability to relocate and modify utilities cannot be identified now as it must be in the project level Fresno-Bakersfield EIR/EIS. Such analysis and mitigation may not be deferred to the future. Elevating, relocating, or burying the lines would require extensive environmental review, may raise eminent domain issues and other impacts, and could add enormous, currently undisclosed costs to the project. Such analysis must be not deferred since the results of the analysis could significantly impact the feasibility of the preferred alignment.

3. Information About Allegations By the City of Los Angeles of Shoddy Construction Involving the Prime Contractor Chosen by the Authority Have Become Available.

³ The HSR alignment aligns with the high voltage line along the east side drip line heading north to south. The HSR crosses the east-west Elde, Flint and Fargo Avenues. Over crossings are planned for these roads to cross the HSR. The over crossings are scheduled to be 40-ft high pushing vehicle traffic up into the HV lines that the roads also cross. Will the clearance between the peak of the over crossing and the HV lines be enough? The HSR heads south still along the HV lines across Hanford, Armona Road, Houston, Iona, Idaho and Jackson Avenues causing the same concerns

The Authority has approved a contract with a company being sued by the City of Los Angeles last month for faulty construction on a large public works project, the runway at Los Angeles International Airport. The Authority's chosen contractor is Tutor Perini Corporation as reported on August 20, 2013:

Tutor Perini Corporation (NYSE:TPC), a leading civil and building construction company, today announced that its joint venture has executed a contract with the California High-Speed Rail Authority (Authority) for the design and construction of the initial Madera to Fresno segment of the California high-speed rail system. The contract is valued at approximately \$985 million, plus an additional \$53 million in provisional sums.

(<http://investor.perini.com/phoenix.zhtml?c=106886&p=irol-newsArticle&ID=1848637&highlight=1>). Tutor-Perini is the same company as Tutor-Saliba since they combined. (<http://www.tutorsaliba.com/news/perini-and-tutor-saliba-combine.html>.)

Tutor-Saliba, and thus Tutor-Perini, is being sued by the City of Los Angeles for shoddy construction work on a \$250 million runway project at Los Angeles International Airport

The city is suing four major contractors that built the \$250-million south runway at Los Angeles International Airport, alleging that widespread construction flaws are causing the runway to wear out prematurely. They are R & L Brosamer, HNTB Corp., CH2M Hill Inc. and a joint venture involving Tutor-Saliba Corp. and O & G Industries Inc.

(http://www.latimes.com/archive/2013/10/morning_buzz_thursday_1019.php. This was reported in the Los Angeles Times. (<http://www.latimes.com/local/la-me-lax-runway-suit-20131016,0,3057309.story>)

The City of Los Angeles' experience is not an isolated incident with this contractor by a single public agency, since several other public agencies encountered similar problems. (<http://www.insidesocal.com/aviation/2013/10/18/tutor-saliba-accused-of-poor-construction-work-on-lax-runway-has-been-sued-before/>) For example, the Los Angeles Times in 2010 reported legal proceedings against Tutor-Saliba related to the Los Angeles County Metropolitan Transportation Agency (a.k.a. Metro or MTA, in whose headquarters you had your October Board hearing) went on for nearly a decade. (<http://articles.latimes.com/2010/feb/14/local/la-me-mta-legal-costs-14-2010feb14>) "Many MTA board members (say) contractor Tutor-Saliba tried to cheat the agency out of millions of dollars by submitting a low bid and then asking for dozens of change orders and other requests that dramatically increased the price of constructing parts of the Red Line subway," the Los Angeles Times reported. (*Ibid*) Therefore, the Authority

must be prepared for the foreseeable possibility that there could be defective construction involved in the high speed rail project, and that it will be required to pay far more than stated in the initial bid amount.

Rules that allowed Tutor-Perini with a proposal that ranked poorly for technical reasons but was lowest in cost to be chosen by the Authority were apparently changed without Board review or approval. (<http://www.modbee.com/2013/04/28/2691569-agency-sneaked-in-change-to-bidding.html>) "In March 2012, the authority's board decreed that even if all five teams submitted bids, only the three most 'technically competitive' firms could compete based on the cost to build the 29-mile segment in Madera and Fresno counties. The teams with the lowest technical scores would be dropped and their price envelopes returned unopened. That rule, however, didn't stick. In August — months before contractors submitted bids — the authority's executive staff quietly altered the process without formal action by the board.") The Kings County Water District is challenging as invalid the contractor selection process through a cross-complaint in the validation action brought by the Authority. (Cross-Complaint filed June 18, 2013, *High-Speed Rail Authority, High-Speed Passenger Train Finance Committee v. All Persons Interested, etc.*, Sacramento County Superior Court Case No. 34-2013-00140689.)

A recent article in the Record Searchlight, a Redding, California newspaper titled "Lack of Permits Irks County Supervisor- Frustration Builds on Bridge Project" addressed problems a county had with a Tutor-Perini project. District Supervisor Bill Schappell stated "Sometimes the lowest bid isn't the best bid." He further went on to say "...I don't respect their business ethics at all. I really don't." In that case, Tutor Perini "low-balled" the bid by \$20 million and failed to secure any of the required permits for construction. The firm further inflamed community members by littering their community with construction equipment in tourist sensitive areas.

Just as the safety of runways at an airport is critically important, the safety of the high speed rail system should be ensured beyond reproach. Therefore, the Authority should take steps to guard against the possibility that construction defects will be discovered years after work on the rail system is potentially completed, as well as steps to protect itself financially from future claims by a contractor with a history of such claims.

4. Historic Resource Impacts Have Been Revealed That Were Denied in Earlier Review Documents.

The Authority approved the Merced to Fresno section of the HSR which analyzes the alignment from Merced to south of the intersection of Highway 99 and Highway 41. However, the Archeological Treatment Plan (ATP) for the Merced to Fresno EIR/EIS only went from Merced to Amador Street in Fresno, which is north of the end of the full Merced-Fresno alignment. Thus, the shortfall of the ATP left the area around the

proposed HSR station south of Amador Street in Fresno outside of the scope of analysis. This area generally corresponds to an area referred to as the Fresno Chinatown area. Instead, this section from south of Amador Street to Bakersfield was addressed, albeit inadequately, in the Fresno-Bakersfield Revised Draft EIR/EIS.

After Authority staff apparently realized that they were planning to award a construction contract that went from Avenue 17 in Madera to American Avenue (south of Fresno) they realized there was a small section not covered in the first ATP. They were given notice by the Chinatown Revitalization Organization that there are potential cultural resources in the area. An ATP addendum report then concentrated on a section south of Amador Street to just south of Highway 41, which corresponds to the area where Chinatown can be found. This addendum report stated:

The Fresno to Bakersfield Section technical reports revealed that there are no known archaeological resources located within the proposed construction footprint; however, review of the historic Sanborn Fire Insurance maps for the Fresno to Bakersfield Section technical reports indicated that a portion of Fresno Chinatown is located within the construction boundary. Extensive archival research and a review of previous studies indicate the presence of two archaeologically sensitive areas, including anticipated property types such as residential features and privies associated with Chinatown, eligible for the National Register of Historic Places (NRHP), that were not addressed in the ATP. The sensitive areas were defined based on historic map research and previous investigations within Fresno Chinatown in locations where sediments with archaeological potential intersect with the anticipated vertical Area of Potential Effects (APE), as defined in the Final ATP (Authority and FRA 2012a).

(Merced to Fresno section Draft Archaeological Treatment Addendum No. 1, p. 1-1, available as the date of this letter at https://dl.dropboxusercontent.com/u/52109137/MF_ATP_Addendum-1_SHPO_Review-013013%5B1%6D-1.pdf) This statement shows that the Draft Fresno-Bakersfield EIR/EIS and the Final Merced-Fresno EIR/EIS were flawed and missing key information about potentially significant impacts. Whereas they reported no known archaeological resources in the proposed construction area, a more thorough search of maps and reports showed that there are cultural resources present including buildings and potential artifacts. It also shows that the use of an addendum ATP for the Merced-Fresno segment approval was inappropriate since an addendum may only be used for reporting minor information or changes. Using an addendum ATP is improper in this context where significant impacts were reported which had previously been undisclosed. The Merced-Fresno EIR/EIS should have been supplemented and recirculated. The Fresno-Bakersfield Revised Draft EIR/EIS must be revised and recirculated. The information from the ATP addendum should be included in the Cultural Resources section of the Fresno-Bakersfield EIR/EIS and the document

recirculated.

Thus far, the impact of construction and operations on existing cultural resources has not been analyzed in a publicly circulated document- either the Merced-Fresno EIR/EIS or the Fresno-Bakersfield EIR/EIS. This omission must be rectified. The HSR alignment poses an engineering risk in that the vibrations and construction stressors may cause damage to local buildings and artifacts. Vibrations from operations can also cause building damage. During construction the loss of business could severely impact the businesses on the west of the tracks (an area already struggling to survive), therefore causing them to close and creating 'blight' in Fresno's Chinatown area. Since many business owners and residents in the area are from minority populations, this could create disparate impacts that must be avoided pursuant to Executive Order 12898. (See "Does high-speed rail threaten cultural heritage?" October 28, 2013, Chen Jia (China Daily USA).) http://usa.chinadaily.com.cn/opinion/2013-10/28/content_17063947.htm.)

The National Historic Preservation Act Section 106 process requires the Authority and the State Historic Preservation Office to coordinate with local parties of interest. In this case the Chinatown Revitalization organization was never contacted and their questions were not meaningfully answered.

5. Air Quality Impact Mitigation Would Be Impermissibly Deferred.

We have learned that the Voluntary Emissions Reduction Agreement (VERA) between the Authority and the San Joaquin Valley Air Pollution Control District has not been completed yet, and likely will not be completed until December 19, 2013 or later. Therefore, the project may not legally be approved until the VERA is actually completed.

A VERA is critical to project approval and compliance with CEQA and NEPA because the EIR/EIS's air quality analysis depends upon this measure for mitigation of construction air quality impacts.

The County of Kings has been informed by air district staff that the VERA is tentatively scheduled to go to the Air Board on December 19th. The terms of the VERA must be included in the EIR/EIS and circulated to the public and public agencies so that they may review this critically important sole mitigation measure for significant construction air quality impacts. Without such public review, the EIR/EIS would violate CEQA and NEPA, and neither the FRA nor STB may make a legally adequate General Conformity Determination.

The deferral of mitigation measures that feasibly could be developed prior to project approval, and thus be made available for public review prior to approval, is impermissible under CEQA and NEPA. (See *Joaquin Raptor Rescue Center v. County of*

Mered (2007) 149 Cal.App.4th 645, 670 [HIR for aggregate mine and processing operation improperly defered mitigation for impacts to vernal pool habitat]; *Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 281; *Conservation Law Foundation v. United States Dep't of Air Force* (D.N.H. 1994) 864 F. Supp. [Impact statement essentially failed to evaluate air quality mitigation measures], aff'd in part and rev'd in part on other grounds sub nom. *Conservation Law Foundation v. Busey* (1st Cir. 1996) 79 F.3d 1250.

The Authority's approval of the Fresno-Merced EIR/EIS included mitigation measure AQ-MM #4 that allegedly committed the Authority to offset to net zero its criteria pollutant emissions from construction that exceed General Conformity thresholds. The September 2012 Merced to Fresno Section: Federal General Conformity Determination relied on this statement that the air quality mitigation measure of a VERA would be approved. (September 2012 Merced-Fresno Section: Federal General Conformity Determination, p. 12-1.)

In August 2012, Mark McLoughlin, Interim Deputy Director of Environmental Planning for the Authority stated "The Authority has prepared a draft VERA and provided it to the District; the parties are currently working towards finalizing and approving it later this year. As the VERA is the method to offset emissions, no construction work will begin until it is executed." (August 13, 2012 letter to Mr. David Valenstein of FRA attached to September 2012 Merced to Fresno Section: Federal General Conformity Determination.) This deferral of the execution of the VERA violated the prohibition of CEQA and NEPA on impermissible deferral of the formulation of mitigation measures. Any potential approval of the Fresno-Bakersfield project on the basis of this same mitigation measure, without an actual commitment to a VERA, would further aggravate this violation.

6. The Choice of the Hanford East Alignment as the Preferred Alternative Requires Recirculation of the Revised Fresno-Bakersfield EIR/EIS and Supplementation of the Programmatic EIR/EIS.

In April 2013, Authority staff identified numerous areas in which the Hanford West Bypass, which was then the recommended preferred alternative, was superior to the BNSF (Hanford East Bypass). ("Preliminary Staff Recommended Preferred Alternative," April 4, 2013.) The Hanford West Bypass was stated to impact fewer acres of U.S. jurisdictional waters (10.76 versus 12.44), less important farmland (809 acres versus 1075 acres), less Williamson Act land (96 acres versus 382 acres), fewer confined animal facilities (4 versus 15), and fewer housing displacements (50 versus 62). Now, Authority staff presents a very different picture of impacts, including changing the numbers for "aquatic resources" and "community resources" impacted. (Compare table 1 and table 2 in April 2013 staff report with table 1 and 2 in November 2013 staff report.) Therefore, the EIR/EIS should be recirculated so the public and public agencies may have sufficient

time to review and comment upon the new information provided. For example, the Hanford East alignment would impact Kit Carson School on the east side of Kings County whereas the prior preferred alternative would not so now that the alignment is identified those impacts must be addressed. Furthermore, the Programmatic EIR/EIS must be supplemented and recirculated since it showed a different alignment, west of Hanford, as the preferred alternative. (Programmatic EIR/EIS, figure 6.3-4A.) The Programmatic EIR/EIS also showed, but the Fresno-Bakersfield EIR/EIS did not analyze, an alignment that followed the SR 99. (*Ibid.*)

B. Feasible Alternatives, Not Merely Variations on A Single Alternative, Should Be Analyzed in a Publicly Reviewed Document.

1. An Adequate Analysis of Alternatives Must be Circulated in the EIR/EIS.

We had stated in our prior letter that the current legal situation, with the Authority having received an adverse ruling in litigation about Proposition 1A (*Tos et al. v. California High Speed Rail Authority*, Sacramento Superior Court Case No. 34-2011-00113919-CU-MC-GDS, p. 7) ("the 'Tos litigation'"), gives the Authority an opportunity to reevaluate alternatives in a public process.⁴ Such alternatives should not have been omitted from the earlier processes, but it is not too late to revisit them in a public process. The current Revised Fresno-Bakersfield EIR presents variations on single alternative, i.e., an alignment through the Hanford area, as if they were alternatives to the project, without addressing alternatives that would effectively avoid many of the impacts that would be created.

⁴ We agree with the plaintiffs in the Tos litigation that the Authority violated Proposition 1A. We also object that if the Authority approves further segments including the Fresno-Bakersfield segment or awards further contracts, it would be further violating the requirements of Proposition 1A. We incorporate all of the allegations set forth in the *Tos* litigation Complaint (Petition for Writ of Mandate in *Tos et al. v. California High Speed Rail Authority*, et al., Sacramento Superior Court case no. 34-2011-00113919-CU-MC-GDS) as if set forth fully herein. Judge Quentin Kopp's declaration in support of the *Tos* plaintiffs was prescient of Judge Kenny's August 2013 ruling as he stated the HSR project "has been distorted in a way directly contrary to the high speed rail plan the Authority attempted to implement while I was Chairman, namely, a true HSR system containing all the features, terms and protections desired by the Legislature and honoring restrictions placed upon use of Proposition 1A bond proceeds by the Legislature. Accordingly, it is my opinion the project is not lawfully eligible to receive Proposition 1A bond funds." (Declaration of Quentin L. Kopp, dated February 15, 2013.) We believe it likely Judge Kenny's ruling would be upheld if there is an appeal.

We are aware of the Authority's 2012 Alternatives analysis report, General Counsel Thomas Fellenz's July 13, 2002 letter to Kings County, and the transcript of a June 2013 meeting involving the County of Kings and Chairman Richard attempting to explain why State Route 99 (SR 99) and Interstate Highway 5 (I-5) were eliminated from analysis in the programmatic and project level EIR/EISs. However, the fact that there may be analysis and comparison of alternatives in various documents not included in the EIR/EIS does not salvage either the Programmatic EIR/EIS or the Fresno-Bakersfield EIR-EIS. In *L-291 Why? Association v. Burns*, 372 F. Supp. 223 (D. Conn. 1974), *aff'd*, 517 F.2d 1077 (2d Cir. 1975), the court concluded that post-EIS studies by a local employee of FHWA could not save a defective EIS, in part because the studies were not circulated to other interested agencies, such as the Environmental Protection Agency (EPA) and the Council on Environmental Quality (CEQ). "The circulation and review requirements are critical features of NEPA's effort to insure informed decision making by providing procedural inputs for all responsible points of view on the environmental consequences of a proposed major federal action." (*L-291 Why? Association v. Burns*, 372 F. Supp. at 223.) The Second Circuit agreed: "These studies could not cure these particular inadequacies because they were not circulated for review and comment in accordance with procedures established to comply with NEPA." (*L-291 Why? Association v. Burns*, 517 F.2d at 1081; *see also Appalachian Mountain Club v. Brueger*, 394 F. Supp. 105, 122 (D.N.H. 1975) [supplemental information not circulated in the same manner as a draft EIS cannot validate an otherwise deficient draft EIS]; *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 442.)

2. The Feasible Alternatives of Construction in the I-5 or SR-99 Corridors Were Improperly Omitted from the Programmatic EIR/EIS and the Fresno-Bakersfield EIR-EIS.

We previously wrote to encourage you to publicly examine the I-5 Corridor or SR-99 Corridor routing. (CBC Letter, October 3, 2013, p. 16.) We remind you that a French high speed rail company made a serious proposal that would have involved construction of a high speed rail system along the I-5 corridor, but this proposal was apparently rejected by Authority staff without being presented to the Board or mentioned in public documents. At least one member of the public, Michael LaSalle, commented about this proposal. (October 13, 2012 comment of Michael LaSalle, p. 5 ["In July, 2012, the *Los Angeles Times* reported that SNCF, a French firm and the developer of France's high-speed rail system, expressed the opinion that an I-5 alignment was a far more direct and cost-effective route to connect the Bay Area and Southern California."] We look forward to your Final EIR/EIS response to this and other comments.

Apparently, the SNCF October 9, 2010 presentation to the Authority staff is available (http://translief.org/Blog/Whats_hot_assets/SNCF%20Presentation.pdf),

but so far as we know it is not available in the Authority's environmental documentation. Some members of the public are aware of the proposed feasible alternative, but not all who review the EIR/EIS. (<http://marketurbansm.com/2012/07/10/what-i-learned-today-about-sncf-and-california-lst/>) [SNCF, the highly experienced French national high-speed rail operator, apparently had a plan for California's HSR network, but was turned off by the highly politicized routing. Namely, they wanted to make a straight shot from LA to San Francisco by running along the flat government-owned I-5 corridor with spurs out to the eastern Central Valley, whereas the California High Speed Rail Authority (CHSRA) and state politicians wanted the main line to go through every little town in the Central Valley, directly.] This proposal would have the advantage of not requiring state funding. We believe this proposal should be revisited. Even if it is not currently being offered, if the Authority expresses a willingness to explore it (especially now that Judge Kenny's ruling casts doubt on the ability of the Authority to use Proposition 1A funds), we anticipate that the proposal could be reassembled.

Other reports submitted and discussed by the Train Riders Association of California (TRAC) also highlight the benefits of an I-5 alignment. In their December 2012 newsletter (which can be found at <http://www.caltrainnews.com/crn/12/12/crn1212.pdf>), TRAC highlights that the I-5 alternative offers superior service, travel times at a lower cost and less environmental and economic impact to the Central Valley.

Also, recent reports have indicated that a proposal by Elon Musk for a high speed transportation system have progressed since it was first announced in August 2013. ("Elon Musk's Hyperloop Now Has A Company: Ambitious Plans for 2015 Demo," posted October 31, 2013 at <http://www.latimes.com/articles/latopinion/lanopinion-musk-s-hyperloop-now-has-a-company-plans-for-2015-demo.htm>.) This proposal apparently would be completely privately financed. (<http://motherboard Vice.com/blog/f-is-elon-musk-s-hyperloop-already-killing-speed-rail>)

While either of these two proposals may be viewed as infeasible (and the Authority is required to publicly articulate the reasons it believes they would be infeasible), each of them have the advantage of not requiring the commitment of billions of dollars of state or federal funds in the future. In light of Judge Kenny's ruling, we suggest that you formally consider these alternatives.

The preferred alternative alignment proposed by staff would have impacts on resources protected by section 4(f) of the Department of Transportation Act (49 U.S.C. 303). Such resources, referred to as "Section 4(f) properties," can only be used for federal-funded transportation projects if there is no feasible and prudent alternative and all possible planning has been taken to avoid the use of a 4(f) property or minimize harm to them. Without an analysis in the programmatic EIR/EIS or Fresno-Bakersfield Revised EIR/EIS of the potential use of the SR-99 or I-5 Corridor or a tunnel alternative

to avoid the 4(f) properties impacted by the preferred alternative, the Authority, FRA, and STB would not be able to comply with the Department of Transportation Act.

3. The Feasible Alternative of Tunneling or Trenching to Avoid Impacts in the City of Hanford Area Should be Analyzed in the EIR/EIS.

In our prior letter, we questioned why the Authority has not considered either a tunnel or trenching option through the City of Hanford area, which would greatly reduce the surface impacts including to the agricultural community. (CBC Letter, October 3, 2013, p. 16.) In response to a Public Records Act request, our client obtained a single email message to the Authority addressing this subject. This single email stated four scenarios of construction of a three-mile long tunnel would increase costs in a range between \$9.50 million for a single-track twin tunnel to \$1.5 billion for a double track 50 foot inside diameter tunnel. These were “estimates and underlying quantities should be consider [sic] ballpark for general discussion only.” (Email correspondence dated August 20, 2013 from Kinzie Gordon of URS to Diana Gomez of the Authority.) This cursory analysis is woefully insufficient. There was no discussion of the enormous costs for mitigation of surface impacts that would be avoided by utilizing a tunnel alternative, nor of the time, and therefore costs, that potentially would be saved in project construction since there may be less opposition (including litigation) and fewer eminent domain proceedings required for a tunnel option. The BNSF alignment through Hanford was the preferred alternative in the Programmatic EIR/EIS approved in 2005. In order to change this preference, a supplement to the Programmatic EIR/EIS must be prepared to explain why such an alternative is no longer the preferred alternative.

Since the overall price tag of the high speed train project in the Central Valley has fluctuated and is “now pegged at \$68 billion, but certain to grow” (<http://www.sacbee.com/2013/10/17/5830825/dam-walters-california-bullet.html>) an increase of \$1 to \$1.5 billion associated with tunnel construction would not render the project infeasible. It likely would render the project more palatable to local jurisdictions and communities, along with mitigating many of the impacts associated with an at-grade or elevated system. Furthermore in the Hanford area, a tunnel option would allow the Authority to intersect the Downtown Amtrak station, which is critical to the economic vitality of Hanford. It would also avoid leapfrog development outside the City of Hanford’s General Plan jurisdiction area and within the County. Thus, such an alternative should be analyzed in order to reduce its impacts.

Furthermore, the staff report states that the Preferred Alternative is estimated to cost approximately \$7.174 billion in 2010 dollars. (Staff Recommendation, p. 3-19.) It is our understanding that the Authority has available to it no more than \$6 billion in grant funding (including \$2.6 billion in federal grants for the Fresno-Bakersfield segment), and that it does not have Proposition 1A funding available due to Judge Kenny’s ruling.

Since the capital costs of the Preferred Alternative are beyond the Authority’s means, we suggest analyzing additional, less expensive alternatives. As we noted in our prior letter, the I-5 Corridor “offers the shortest distances, lowest capital costs, fastest . . . travel times, and highest overall ridership forecasts.” (CBC October 3, 2013 Letter, p. 14, citing California HSR Corridor Evaluation and Environmental Constraints Analysis, Taylor et al., Journal of Transportation Engineering, Jan./Feb. 1997, p. 6, emphasis added.) Lower costs for I-5 were also noted by TRAC. (<http://www.caltrainnews.com/crn/1212/crn1212.pdf>, p. 5.) Because the geographic layout of the [an] I-5 Corridor line is so wasteful, with 100 extra miles of route and unnecessary grade and seismic hazards, no private capital is willing to undertake the ridership risk.”)

It is our understanding based upon the City of Santa Clarita’s presentation at the Board hearing of October 14, 2013 that a tunnel option is being considered for the Santa Clarita area of the High Speed Train system. We request that the City of Hanford area within Kings County be shown the same consideration.

C. Kings County Repeats its Requests For Coordination.

Our prior letter requested that the Authority coordinate with the County of Kings. At the last Board meeting, Frank Oliveira of CCHSRA stated that the Authority had failed to answer the questions the County of Kings had posed for a long time, since at least April 17, 2012. The County also posed questions at a June 4, 2013 meeting with the Authority. Board Chairman Richard responded in October 16, 2013 correspondence to Mr. Oliveira that various questions had been answered. However, as October 30, 2013 email message from County Counsel Colleen Carlson to Chairman Richard and the Authority staff clarifies, issues from the June 2013 meeting remain unanswered and answers related to the 2012 questions were non-responsive. Detailed and responsive answers, i.e., those that tend to work toward a resolution, to the questions Ms. Carlson identifies would be appreciated as a preliminary to meeting among representatives of the Authority, the County, CCHSRA, and the Farm Bureau about these questions.

The Authority staff report lists numerous agencies that have been meeting with FRA and the Authority: USFWS, CDFW, the San Joaquin Central Valley Flood Control Board, USACE, the State Historic Preservation Office, the State Water Resources Control Board, the EPA, CARB, and the San Joaquin Valley Air Pollution Control District. (November 2013 Authority Staff Report, p. 3-28.) It is telling that meetings are not reported to coordinate with the County of Kings, the City of Hanford, the City of Bakersfield, and other jurisdictions to coordinate the alignments. Instead, it is reported under the “Project Area Local Governments” heading that “Kings County and the City of Hanford do not support an HST alignment in Kings County and would prefer the HST to follow SR 99 or I-5.” (Staff Report, p. 2-2.) We request that the Authority undertake a coordination process with Kings County in order to address the reasons Kings County currently does not support an HST alignment through its jurisdiction. It is our hope that

FRA, STB, and CEQ can help facilitate this process.

D. Procedural Issues Related to the Authority's Potential Decisions in November and December.

We realize that you are considering a preferred alignment on November 7. Your staff report appears to contemplate approval of the Final EIR/EIS in January 2014. However, approval without recirculation of a legally adequate environmental review document would violate the requirements of CEQA, as we have outlined above and in prior correspondence. We also advise you that Judge Kenny will be having a hearing of the Proposition 1A litigation on November 8, 2013, the day after your November 7th hearing. Any decision from Judge Kenny potentially enjoining expenditures on the project would likely have a profound impact on your schedule. No matter when you intend to review and potentially approve the Fresno-Bakersfield alignment, we make the procedural requests below.

1. We Request a Copy of All Notices Issued By the Authority, FRA, and STB Related to the California High Speed Train System.

We request a copy of all future notices issued by the Authority, including but not limited to notification if the Authority files a Notice of Determination about the Project for any reason, pursuant to Public Resources Code section 21092.2. We request a copy of any notice issued by FRA or STB related to further consideration of the California High Speed Train System.

2. Responses to Agency and Other Public Comments Should be Released With Sufficient Time to Review Them Prior to Certification.

Regulations adopted pursuant to the California Public Resources Code require that the Authority provide responses to public agency questions at least 10 days prior to certification of the EIR/EIS. Since CEQA Guidelines section 15088 reads in pertinent part that "the lead agency shall provide a written proposed response to a public agency on comments made by that public agency at least 10 days prior to certifying an environmental impact report," (State CEQA Guidelines § 15088, subd. (b)) Since it appears the Authority may certify the Final EIR/EIS in December or January, the Authority should release the responses to comments with sufficient time for the public and public agencies to review them. This is obviously a complex project with extensive documentation and extensive public and public agency comments. It would be appropriate to provide at least a 90 day period for review of the responses to public and public agency comments before the Authority considers certifying the Final EIR/EIS. As we have stated before, this is a once-in-a-century opportunity of a project potentially involving massive expenditures of public funds. The public should not be shortchanged

with a rushed review and approval process, especially during the year end holiday season.

Conclusion.

FRA, STB, and the Authority have failed to appropriately analyze high speed rail alignments through Kings County and ways to effectively avoid or mitigate their impacts. The continued review of the HST project now should encompass the significant changes that have occurred to the project and its circumstances. With these recent changes in the project and its circumstances, CHSRA, Kings County, and the Kings County Farm Bureau request that these changes be reflected in a Revised Draft EIR/EIS for the Fresno-Bakersfield alignment and a supplemental HST programmatic EIR/EIS that are both released to the public for a public review period of at least 90 days.

Thank you for your consideration of these views. We look forward to your responses.

Sincerely,

Douglas P. Carstens

Cc:

Environmental Protection Agency
US Army Corps of Engineers
US Fish and Wildlife Service
California Department of Conservation
California State Water Resources Control Board
California Department of Fish and Wildlife
California Department of Transportation
Congressman David Valadao
Congressman Kevin McCarthy
Congressman Jeff Denham
Senator Andy Vidak
Assemblymember Randy Salas
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LATHAM & WATKINS LLP

November 7, 2013

BY HAND DELIVERY

Honorable Board of Directors
California High-Speed Rail Authority
770 L Street, Suite 800
Sacramento, CA 95814

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Re: November 7, 2013 Board of Directors Meeting Agenda Item # 2: Consideration of the Staff Recommended Preferred Alignment for the Fresno Bakersfield Project Section

Dear Honorable Board Members:

We are writing on behalf of our client, Coffee-Brimhall LLC, to request that you reject staff's Preferred Alternative for the Fresno to Bakersfield portion of the California High-Speed Train Project. Because the High Speed Rail Authority has not identified a funding source for a dedicated high-speed rail alignment south of Shafter, the Board should not adopt a Preferred Alternative that unnecessarily cuts through neighborhoods, homes, and businesses from Shafter to downtown Bakersfield. We appreciate that staff's proposed resolution directs staff to continue to work with the City of Bakersfield to address the range of decision-making options for this Board, but request that clearer direction be given to staff today on the Board's implementation of the project in Bakersfield.

Specifically, the Board should adopt a Preferred Alternative with a dedicated high-speed only alignment to Shafter that, at Shafter, ties into the existing BNSF/Amtrak track and continues on this existing track Bakersfield. This will create a segment with "independent utility" that can be built today. Alternatively, if the Board decides not to consider this feasible alternative, the Board should amend the resolution to confirm that the Board will not rely on any environmental clearances for the Fresno to Bakersfield Project Section in deciding what the ultimate alignment through the metropolitan Bakersfield area will be. The Board should also direct Authority staff to analyze alternative Bakersfield area alignments as part of the Bakersfield to Palmdale Project Section environmental analyses. In other words, the Board should commit to taking a fresh look at the Bakersfield alignment when it analyzes the Bakersfield to Palmdale section and should preclude itself from relying on any environmental clearance connected to the Fresno to Bakersfield section. Due to the admitted lack of funding, the high-speed rail project will not be prejudiced in any way if the Board makes these commitments today.

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However, failing to take either of these actions has real world consequences for thousands of residents, homeowners, and businesses in the alignment's path, and threatens to delay the project by creating unnecessary opposition to it. If the Board adopts staff's proposed Preferred Alternative today, the Board will place a black mark on every property in and near the alignment and spur project opposition. While the Board will only be drawing a line on a piece of paper, there are real world impacts from doing so – residential property values will drop, communities will be split in two, and businesses will forgo necessary investments. Both of the alternatives offered here protect against these impacts and fomenting contempt and we respectfully request that the Board adopt one or both of them.

Coffee-Brimhall, LLC owns approximately 255 acres of land at Coffee Road and Brimhall Road in Bakersfield and has approvals to build two million square feet of retail and commercial buildings and 425 dwelling units as part of the Bakersfield Commons project. The Bakersfield Hybrid alignment cross this property as it cuts through the adjacent neighborhoods and heads into downtown Bakersfield. This is simply unacceptable to our client and to the Bakersfield community, which strongly supports the Bakersfield Commons project and looks forward to the economic engine that a project of the magnitude that Bakersfield Commons will be. We have raised these issues on numerous occasions, including through a comment letter dated October 19, 2012, on the Revised Draft Environmental Impact Report/Environmental Impact Statement for the Fresno to Bakersfield segment (RDEIR/S), which is incorporated by this reference.

Though these site-specific issues are critical, the immediate issue before the Board today is the approval of a Preferred Alternative alignment. In the Bakersfield area, staff recommends the Bakersfield Hybrid Alternative because, in staff's view, "it would impact the fewest acres of quality habitat along the Kern River, it would impact the fewest religious facilities, cause the fewest residential displacements, and it would not impact the Bakersfield High School campus and Bethel Christian School." (Staff Recommendation: Preferred Alternative, November 2013, p. 4-1.)

The Authority and the Federal Railroad Administration (FRA), however, only have funding for the Fresno to Bakersfield segment to extend the proposed new high speed rail line between Fresno and Shafter. We are not aware of a funding source that would permit construction of new high speed-only track between Shafter and downtown Bakersfield, nor has either agency identified any. Because this funding does not exist, the Board should not adopt a Preferred Alternative that includes a high-speed alignment between Shafter and Bakersfield. Adopting staff's Preferred Alternative violates CEQA because doing so means that the Authority will not analyze a feasible alternative that would mitigate the impacts of the alignment through Bakersfield.

The RDEIR/S only analyzes the environmental impacts of a new high speed track between Shafter and Bakersfield. The RDEIR/S does not discuss of the possibility that another alignment may be needed to connect from Shafter to Bakersfield despite the funding challenges currently facing this segment. Since there is only funding to build the project to Shafter, and the

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Authority has stated that each segment must have independent utility,¹ the Authority will have to tie the high speed rail line from Fresno to Shafter into existing rail lines in order to reach Bakersfield. If the Authority does not analyze the impacts from this alignment now, it will need to reopen the environmental review process and do it later. Under CEQA, “an EIR must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or mature of the initial project or its environmental effects.” (Laurel Heights Improvement Association v. Regents of the University of California (1988) 47 Cal.3d 376, 396.) Similarly, under NEPA, the range of actions to be considered in a single environmental impact statement includes “[c]onnected actions, which means that they are closely related and therefore should be discussed in the same impact statement.” (40 CFR § 1508.25.)

Therefore, to protect any certification of this segment’s EIR against a well-founded piecemealing and segmenting argument, the Board should approve a Preferred Alternative that contains high-speed only rail between Fresno and Shafter and then ties into the existing BNSF/Amtrak track at Shafter and uses this existing track to continue to Bakersfield and to create a segment with “independent utility.”

As an alternative, if the Board adopts the staff-recommended Preferred Alternative, the Board should concurrently adopt a resolution confirming that it will not undertake any design, acquisition, or construction activities pursuant to this approval with respect to the Bakersfield area. This resolution would blunt the significant impacts on homeowners and businesses of drawing a black line through and next to their properties. Should the Board ultimately certify the EIS/EIR for the Fresno to Bakersfield Project Section, the Board should immediately thereafter adopt a Notice of Preparation for the Bakersfield to Palmdale Project Section EIS/EIR directing the Authority to analyze alternative alignments for the Bakersfield region. These alternative alignments must include a Bakersfield station location outside of the City center, which is the preferred station location of a “majority of individual and government official comments.” (Staff Recommendation: Preferred Alternative, November 2013, p. 2-1.)

¹ The RDEIR/S states that the Merced to Fresno and Fresno to Bakersfield sections of the High Speed Train system have been prioritized to meet American Recovery and Reinvestment Act (ARRA) funding requirements. ARRA’s funding requirements include a funding deadline of Sept. 30, 2017, and a requirement that the Federal investment demonstrate “independent utility” as that term is defined in the High Speed Intercity Passenger Rail Notice of Funding Availability and Interim Program Guidance (74 Fed. Reg. 29900, 29905, June 23, 2009) (“Notice of Funding Availability”). (RDEIR/S, p. 2-108.) The Notice of Funding Availability defines “independent utility” as “[a] project...[that] will result, upon completion, in the creation of new **or substantially improved** High-Speed Rail/Intercity Passenger Rail service, and will provide tangible and measurable benefits even if no additional investments in the same High-Speed Rail/Intercity Passenger Rail service are made.” (Emphasis added.) The term “Intercity Passenger Rail” is defined in the Notice of Funding Availability to “subsume[] both High-Speed Rail and conventional intercity passenger services.” (Emphasis added.)

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The Board should not approve a Preferred Alternative that includes a high speed track between Shafter and Bakersfield. Funding for this segment does not exist, and the selection of a Preferred Alternative that may never be built puts an unnecessary strain on residents and businesses and creates an unnecessary litigation risk for the Authority relative to its environmental review of this major project.

We very much appreciate your consideration. Please do not hesitate to contact me at (213) 891-8015 if you have any questions.

Very truly yours,

/s/ Benjamin Hanelin
Benjamin J. Hanelin
of LATHAM & WATKINS LLP

cc: Jeff Morales, Chief Executive Officer, California High Speed Rail Authority
Thomas Fellenz, Chief Counsel, California High Speed Rail Authority
David Valenstein, Environmental Program Manager, Federal Railroad Administration
Ms. Christine Mirabel
Mr. Alan Tandy
Ms. Virginia "Ginny" Gennaro
Mr. Jim Eggert
Mr. George Mihlsten

Good Morning Chairman Richard and Members of the Board.
My name is Ross Browning and I am a resident of Kings County.

On October 25, 2013, on Channel 18's "The Maddy Report", Jeff Morales, CEO of the California High Speed Rail Authority when asked about the people and resistance in Hanford, stated, "It is the growing pains of the project." The resistance felt is NOT "the growing pains of the project", it IS, however, our attempt to shine light on the terrible, inept lack of planning, and poor management of this project. It also highlights the inefficient and ineffective use of taxpayers money.

South of the city of Fresno your alignment leaves Highway 99 and goes helter-skelter, bisecting fields diagonally, through the best agricultural land in the country. South of Fresno County is Kings County. It is 34th in size of the 58 counties in California, but Kings County is 8th of the 58 counties in Gross Agricultural Value, as expressed in dollars in agricultural crop income according to the Kings County Ag Crop Report of 2012.

Growing Pains? NO. It is the destruction of Kings County's highly efficient planning, construction and operation of its farms and dairies. This project should not be here. The High Speed Track, at this time, is NOT aligned on a major transportation corridor, like I-5, as Proposition 1A says it needs to be.

This Authority needs to comply with the law and Judge Kenny's rulings of August 16th. At this time you are operating illegally. You are doing a disservice not only to yourself but to all residents of Kings County, the tax payers of the State of California, and ~~you're~~ ^{you're} making a mockery of our State Judicial System.

Remarks to California High Speed Rail Authority Board
November 7, 2013
Liz O'Donoghue, The Nature Conservancy (codonoghue@tnc.org)

Good morning, Chairman Richard and Board Members. My name is Liz O'Donoghue, Director of Infrastructure and Land Use for The Nature Conservancy.

Today you are being asked to authorize staff to move ahead to conserve a portion of the Lazy K Ranch to help mitigate for the Merced – Fresno segment of the project. This project will help protect important and rare biological resources in the area which has long been identified as a conservation priority.

I'm here to encourage you to take this opportunity to build on this action to set a new direction for mitigation going forward that will break from the status quo - to adopt a more effective approach than the typical, project by project approach to mitigation, which is risky, costly and often ineffective.

A better process, called regional advance mitigation planning or RAMP, relies on science, collaboration and landscape scale conservation and mitigation planning, to mitigate in advance of the project implementation.

Both research and practical experience shows that this is a more effective and efficient way to approach mitigation that reduces project delivery time, is less costly and more cost effective for infrastructure agencies. Importantly, it results in better conservation outcomes.

California's rich and diverse natural habitats are under stress and are eroding or disappearing. Our natural habitats provide us with clean water to drink, clean air to breathe, rich soil to grow food and sequester carbon, and our beautiful rivers, mountains and valleys offer us opportunities to de-stress and recharge. Once these resources are impacted, they are lost forever.

As you know, the Authority is required under NEPA and CEQA to adhere to the mitigation hierarchy to first, avoid impacts, then minimize impacts, and then if there are unavoidable impacts, to then to acquire or restore resources to compensate for the impact.

With a project this size, you will be spending millions if not more on mitigating for the impact of the project on biological resources, both aquatic and terrestrial.

It is critically important that those compensatory mitigation investments in protecting the valuable, rare and disappearing habitats and species are sound and successful and are not wasted.

To that end, I would like to offer a few guiding principles that the Authority should consider moving forward.

- 1) Base investment decisions on landscape scale conservation planning that identifies regional conservation priorities and drive mitigation investments to advance those priorities.

- 2) Focus on larger investments that ensure that ecological processes are protected and deliver more effective ecological outcomes, such as habitat connectivity and climate resilience.
- 3) Ensure that mitigation investments are enduring.
- 4) Provide transparency and accountability to the process and the investments.
- 5) To the extent feasible, partner with other infrastructure agencies, such as Caltrans and local transportation agencies to bundle mitigation needs and invest in larger mitigation sites.
- 6) Mitigation needs to be paid for by the project, not other external sources of funds.
- 7) Importantly, start the process now to reap the benefits of mitigating in advance for potential impacts.

This is not a new concept. It is in place for transportation programs in Orange and San Diego Counties. Caltrans has been moving this way for years. The Federal Highways Administration has been developing this approach called “Eco-logical” or the “Integrated Ecological Framework” for the past five years. The regulatory agencies support this approach. It’s just more difficult to do today because our current systems, practices and funding frameworks are based on the project-by-project approach and it’s hard to change.

I will close with reporting on an announcement last week from U.S. Department of Interior Secretary Sally Jewell who issued an order¹ outlining a new mitigation strategy. She said the strategy will be based on a few key points, which align with what I just mentioned. Those points are:

- “(1) the use of a landscape-scale approach to identify and facilitate investment in key conservation priorities in a region;
- (2) early integration of mitigation considerations in project planning and design;
- (3) ensuring the durability of mitigation measures over time;
- (4) ensuring transparency and consistency in mitigation decisions;
- (5) a focus on mitigation efforts that improve the resilience of our Nation's resources in the face of climate change.”

We really believe that if the High Speed Rail Authority adopts this paradigm for mitigation, it will be a model of innovation and a new standard for the rest of California and the nation. The Nature Conservancy stands ready to assist the Authority in adopting a new paradigm for mitigation.

Thank you.

¹ <http://www.doi.gov/news/loader.cfm?csModule=security/getfile&pageid=380602>

Wasco-Shafter Ag Group

P.O. Box 1200

Wasco, California 93280

November 5, 2013

Ms. Diana Gomez
Central Valley Regional Director
California High Speed Rail Authority
2550 Mariposa Mall, Suite 3015
Fresno, CA. 93721

Dear Ms. Gomez:

The Wasco-Shafter Ag Group is writing to indicate its support of the BNSF Alignment for the High Speed Train (HST) in the Wasco-Shafter area. This support is based on evaluation of a wide range of interests and factors, including that alignment's consistency with the project purpose, its furtherance of the public interest, and its relative effects on the environment compared to other alternatives.

The Project Objectives of the HST System in California and in the South San Joaquin Valley include:

- Maximizing the use of existing transportation corridors and rights-of-way, to the extent feasible.
- Providing intercity travel in a manner sensitive to and protective of the region's natural and agricultural resources and reduce emissions and vehicle miles traveled for intercity trips.

The BNSF Rail is the existing transportation corridor in the Wasco-Shafter Community. Therefore, the BNSF Alignment would "maximize the use" of an existing transportation corridor and the associated rights of way. The Bypass Alternative would strike out across prime farmland, bifurcating parcels diagonally, and crossing existing transportation corridors resulting in 20 road closures, thereby creating a new constraint in an otherwise rural area. The BNSF Alignment only results in 5 road closures. Road

Parameter	BNSF Alternative (Through Wasco and Shafter)	Wasco-Shafter Bypass
Number of Road Closures	5	20

closures reduce the efficiency of the existing transportation infrastructure, when, as stated above, one of the Project Objectives of High Speed Rail is to reduce emissions and vehicle miles.

Rail track. If this is done, then the 70 acres can be farmed by the entity on the west side of the tracks and it would not be converted farmland. If for cost reasons, the BNSF tracks are not moved, there would be an island of 70 acres. This "island," at 70 acres, is of sufficient critical mass to be commercially viable for farming and would likely be farmed. Additionally, it would not qualify as a remnant parcel based on the definition in the "Settlement Agreement By and Among Madera County Farm Bureau, Merced County Farm Bureau, Preserve Our Heritage, Chowchilla Water District, and Fagundes Parties, Petitioners and Plaintiffs and California High-Speed Rail Authority, Respondent and Defendant" (Settlement Agreement), as remnant parcels are 20 acres or smaller. The 70 acres was included in the 696 acre number because its fate has not yet been determined. Just because the fate of this parcel is not defined does not mean it will be converted; it likely will not be. Since it is likely that the 70 acres will be farmed in either scenario, it should not be counted in the total acreage of Important Farmland converted. Recognition of that would yield a total of 626 acres of Important Farmland being converted on the BNSF Alignment, meaning that of the two alternatives the BNSF Alignment would convert the least amount of Important Farmland.

Fewer acres of Williamson Act Land would be converted by the BNSF Alignment, making it the better choice.

Not even considered in the analysis above are turnarounds. Turnarounds are the area at the end of any row, whether considering permanent or annual crops, which are required for equipment to turnaround at the end of the row. With the Bypass Alternative, the tracks would be placed in the middle of many fields, requiring that not only the right of way be taken out of production, but the turnaround area as well. This turnaround acreage loss is recognized in the Settlement Agreement. This acreage is not accounted for in the numbers on the matrix above. A 40 foot turnaround means that for every acre of right-of-way, there will be an additional .8 acres of farmland converted. This number needs to be added to the 684 acre number above, making the loss to conversion of Important Farmland on the Bypass Alternative 1,231 acres. The Williamson Act acreage would also need to be adjusted, adding a .8 factor to the 247 acres on the Bypass Alternative, making it 444 acres.

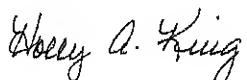
Looking at this scenario from a public interest perspective, the conversion of Important Farmland on the BNSF Alignment would have less negative impact on food and fiber production. The BNSF Alignment would also be more conservation oriented, both in terms of the direct impacts and future impacts (not create the farm "island").

Travel safety and improving it is one of the stated purposes of the high speed train and is discussed further in Section 1.2.4.2 "Safety and Reliability". Choosing the Bypass Alternative has the potential to compromise the safety of the passengers who would be passing through one of the fastest growing oil fields in Kern County – the North Shafter Field - underlain by the now famous Monterey Shale. It is projected there will be significant future oil drilling and hydraulic fracturing activities in this area. With incomplete science related to hydraulic fracturing, and regulations only now being developed, safety of a public transportation corridor cannot be guaranteed as it weaves through this oil field. In addition, the Bypass Alternative will have oil and gas wells on either side of it as it passes through the North Shafter Field. This new constraint also has significant potential to reduce the response times for fire and police,

either alignment (with the exception of one agricultural basin on the Bypass alignment) provide little or no ecological functions or human values of the sort typically associated with aquatic ecosystems. To this extent, thus, neither alternative would have an appreciable effect on the aquatic ecosystem. In this regard, the BNSF Alignment and Bypass Alternative, notwithstanding a difference in the acreages of the nominal water features along them, are tweedledum and tweedledee--largely indistinguishable. Indeed, to the extent that the aquatic ecosystem is implicated at all by the choice of alternatives, it is the selection of the Wasco-Shafter Bypass Alternative that would adversely affect the aquatic ecosystem by removal of the one water feature along either alignment that provides any habitat values.

All in all, for the many reasons summarized above, the Wasco-Shafter Ag Group finds that the BNSF Alignment would better fulfill the project purpose and need, better serve the public interest, and better avoid and minimize effects on the environment. The Group accordingly urges the HSRA to select the BNSF Alignment for the HST Project.

Sincerely,



Holly A. King
On behalf of the:
Wasco-Shafter Ag Group

cc: Mark McLoughlin
 Jeff Morales
 Dan Richard
 Tom Richards



LIVE OAK ASSOCIATES, INC.

an Ecological Consulting Firm

November 5, 2013

Holly A. King
Wasco-Shafter Ag Group
P.O. Box 1200
Wasco, CA 93280

RE: Ecological functions and human values, hydrologic features of the BNSF and Wasco-Shafter Bypass High Speed Train Alternatives, Kern County, California

Dear Holly:

This letter is in response to your request for a comparative analysis of the ecological functions and human values of the hydrologic features occurring along the BNSF and Wasco-Shafter Bypass alternatives under consideration for the High Speed Train (HST) project. An initial delineation of hydrologic features prepared for the HST Authority identified 30.22 and 18.28 acres of potential waters of the U.S. along the BNSF and Wasco-Shafter Bypass alignments respectively. For both alignments the area of study typically included a 100-foot wide construction footprint (direct impact to potential waters of the U.S.) and an additional area on either side of the construction footprint 250 feet in width (presumed indirect impacts to potential waters of the U.S.). During the spring of 2013, Live Oak Associates, Inc. (LOA) completed a separate study of the hydrologic features occurring along both alignments (within the same study area boundaries of the previous study), and determined that all hydrologic features present along both alignments consisted of engineered or otherwise human made basins, canals, ditches, and artificial depressions constructed primarily for the management of irrigation water and stormwater. Natural hydrologic features were entirely absent. And according to our study, 24.56 acres of such features were present along the BNSF alignment, and 16.91 acres of such features were present along the Wasco-Shafter Bypass alignment.

A breakdown of the various types of hydrologic features delineated by LOA is presented in Table 1 below:

Table 1. Hydrologic Features of the BNSF and Wasco-Shafter Alternatives, HST Project.

HST Alignment	Agricultural Basin	Industrial Basin	Municipal Basin	Canal	Ditch	Artificial Depression
BNSF Alternative	13.59 a.	1.08 a.	0.38 a.	8.20 a.	0.99 a.	0.33 a.
Wasco/Shafter Bypass Alternative	9.52 a.	0.16 a.	0.00 a.	6.38 a.	0.73 a.	0.11 a.

The hydrologic features presented in Table 1 are defined as follows:

- *Agricultural Basin.* Regulating and tailwater reservoirs as part of farm irrigation infrastructure;
- *Industrial Basin.* Basins associated with industrial and commercial areas that are used to collect stormwater and/or runoff from industrial or commercial activity;
- *Municipal Basin.* One basin observed in Shafter used to collect stormwater from urban hardscape;
- *Canal.* Conveyance structures for irrigation water being delivered to individual farms;
- *Ditch.* Non-wetland temporary or permanent conveyance structures for irrigation water or stormwater;
- *Artificial Depressions.* Low areas adjacent to the BNSF railroad that were created from grading of areas adjacent to the elevated bed of the BNSF tracks.

The information gathered during our study makes clear that none of the hydrologic features along either alignment are managed to optimize the values of such features for any other purpose than efficiently managing irrigation water, industrial/commercial runoff, and stormwater. For example, the Wasco-Shafter Irrigation District has minimized evaporative losses of irrigation water by delivering all irrigation water in the District by underground pipe. There was only one large irrigation canal within the study area, which was located near the north end of the study area, and is managed and operated by the North Kern Water District. The selection of either HST alignment would impact approximately one acre of this canal, which is maintained for the express purpose of delivering irrigation water to farms with minimal losses from seepage and evapotranspiration.

As can be seen from Table 1, the majority of hydrologic features consist of regulating reservoirs and tailwater ponds. During the course of our study, we discovered that as farmers are becoming increasingly efficient in their use of irrigation water, they no longer need tailwater ponds, and such ponds are not only being abandoned, but filled in and converted to productive agricultural land. In short, the vast majority of hydrologic features along both alignments exist to efficiently manage irrigation water, and as technology changes and the farmer's needs change, these features are subject to modification or elimination, without regard to other ecological functions or human values they may have that are incidental to their primary purpose.

Other hydrologic features identified along one or both HST alignments include a sediment settling pond within the yard of Golden Empire Concrete in the City of Wasco, roadside stormwater ditches, and stormwater basins in the yard of an industrial facility in Shafter. For the most part, these are unvegetated features, since management of them for their intended purpose results in the removal of vegetation, or the creation of conditions not conducive to the establishment of vegetation.

It is true, of course, that some irrigation and flood control infrastructure in California's Central Valley has arguably some of the ecological functions and human values attributed to naturally occurring wetlands. Such functions and values are incidental to the primary function of delivering irrigation water or controlling stormwater. The primary objective of this letter is to examine the hydrologic features of both HST alignments in order to determine what those ecological functions and human values, if any, might be, and then compare the damage to those functions and values from the selection of one HST alternative over the other. I should note that the discussion below assumes that the human values are "public values" and not individual values narrowly applying to an individual farmer or commercial venture.

Ecological Functions

Do the Hydrologic Features Serve as Fish and Wildlife Habitat?

Hydrologic features of both alignments provide limited habitat for non-native fish and other wildlife. Given that the hydrologic features of both alignments consist primarily of ponds of one type or another, one might suspect that they would potentially serve as habitat for water birds (i.e., waders, geese, and ducks of various types). Actually, such is not the case. The vast majority of water birds using California's Central Valley are wintering birds present when agricultural basins and canals are typically dry. Irrigation infrastructure of both alignments carries water most predictably in the spring and summer when farmers need irrigation water. Most water birds are on their breeding grounds in Canada and Alaska when the agricultural basins of both HST alignments have water in them. It is true that occasional winter storms may drop sufficient precipitation into the agricultural basins to result in minor ponding, but the only ponding would result from precipitation directly into the basins. None of the agricultural basins are, however, part of a watershed that would feed water into them, since the surrounding lands are nearly level. Since average rainfall in the Wasco-Shafter area is less than eight inches per year, individual winter storms will not create the aquatic conditions in these agricultural basins that would attract appreciable numbers of water birds.

It is worth noting, however, that a single agricultural basin (WSB-9) within the Wasco-Shafter Bypass alignment appears to be inundated throughout the year, and at the time of LOA's surveys in the spring of 2013, supported a mosaic of open water and emergent marsh habitats. This 0.97-acre basin would likely support non-native fish and provide high quality habitat for waterbirds, especially those that commonly winter in the Tulare Basin. That said, it is important to remember that this basin is part of the irrigation infrastructure of a farming operation, and could be subject to the kind of maintenance common to the other basins of the two HST alignments. In short, the habitat values observed at the location of this basin are incidental to its function as a regulating or tailwater basin, and these habitat values would likely disappear should the farmer decide to maintain the basin for more efficient water use.

Storm water basins within the two alignments may fill from sheet flow and may hold more water during some winters than the agricultural basins. Ponding in these basins, however, is infrequent and unpredictable. They are very small and are located in industrial/commercial/urban areas that would not be attractive to most water birds. Therefore, the storm water basins would not function as important water bird habitat.

The hydrologic features, regardless of type, within the two HST alignments are not attractive to water birds for other reasons, as well. Most of these features are very steep-sided, and when they are filled with water, are too deep for wading birds. With the exception of the aforementioned WSB-9 they are devoid of aquatic or emergent vegetation that provides habitat for invertebrates, fish, and amphibians, organisms that would attract water birds to them. Finally, nearly all of these features, regardless of the HST alignment they are located on, are subject to on-going maintenance and/or are located along busy roadways. Disturbance associated with maintenance and road traffic would further reduce the value of these hydrologic features for water birds and other wildlife.

Although the total area of hydrologic features occurring along the BNSF alternative is greater than the area of hydrologic features occurring along the Wasco-Shafter Bypass alternative, it is not meaningful to say that a greater area of wildlife habitat occurs along the BNSF alternative. The hydrologic features of both alternatives provide very limited habitat for native wildlife, (with the

possible exception of WSB-9 on the Wasco-Shafter Bypass alignment) such that the selection of either alternative would have little effect on wildlife resources.

Do the Hydrologic Features Provide Habitat for Special Status Wildlife Species?

Special status wildlife species are those that have been listed as threatened or endangered per the federal and California endangered species acts, are candidate species for such listing, or have been listed as Species of Special Concern by the California Department of Fish and Game. The hydrologic features occurring along both HST alignments do not provide habitat for any such species. Habitat once suitable for special status species in the Wasco-Shafter area has been replaced by irrigated agriculture.

Therefore, habitat for special status wildlife species would be unaffected by the selection of either HST alignment.

Do the Hydrologic Features Provide Habitat for Native Plants?

All of the hydrologic features occurring along both HST alignments were excavated from highly disturbed agricultural lands. Terrestrial plants associated with the hydrologic features of both alternatives are mostly limited to non-native species tolerant of disturbance.

Therefore, native plant diversity would be unaffected by the selection of either HST alignment.

Human Values

Do the Hydrologic Features Facilitate Groundwater Recharge?

Regardless of HST alignment, all agricultural basins are intended to hold water during the irrigation season (primarily spring and summer). Farmers wish to minimize losses from seepage. Where agricultural basins have been excavated in clay soils, seepage into the soil profile will naturally be minimized. Basins excavated in sandy or loam soils are lined with clay or polypropylene liners to prevent losses of irrigation water through the underlying soil profile.

Storm water basins located along both alignments may facilitate groundwater recharge some years (i.e., years of significant rainfall). Given the small size of the storm water basins occurring along both alignments, groundwater recharge would not be significant even during years of significant rainfall.

The hydrologic features occurring along both HST alignments are not important to local groundwater recharge, and the selection of one alignment over another would not measurably reduce local or regional groundwater recharge levels.

Do the Hydrologic Features Facilitate the Storage of Surface Water?

The engineered agricultural basins occurring along both HST alignments are designed to hold water temporarily until it can be pumped according to a carefully designed schedule onto agricultural crops. This storage function serves a narrow private interest (i.e., the interest of each farmer), and has no larger public interest.

The industrial and municipal storm water basins occur primarily along the BNSF alignment. These basins are designed to hold accumulated storm water and hardscape runoff in relatively small geographical areas associated with individual industrial or commercial facilities until the water can evaporate or percolate. Storage capacity in these basins is quite small and the basins appear to serve a narrow private interest (i.e., the interest of the business entity that wishes to avoid flood damage to its facility).

The public's interest in the storage of surface water would be unaffected by the selection of one HST alignment over the other.

Do the Hydrologic Features Facilitate the Storage of Subsurface Water?

The hydrologic features occurring along both HST alignments are designed to minimize loss of irrigation water into the groundwater. Thus, these features, regardless of HST alignment, are not important to the storage of subsurface water.

Do the Hydrologic Features Facilitate the Attenuation of Flood Flows as a Result of Water Storage?

None of the hydrologic features occurring along either HST alignment are part of a natural drainage system prone to flooding. As previously noted, agricultural basins are located primarily on nearly level ground, and do not accept surface flows, because they are not part of a watershed feeding surface water into them.

Industrial and municipal storm water basins do accept surface water via a localized engineered system of storm drains. With the exception of the municipal basin located along the BNSF alignment in Shafter, these storm water basins generally serve the properties they are constructed on, and do not have a larger public purpose. With respect to the municipal basin that ostensibly serves a public purpose, it lies outside the HST construction footprint (it is within the 250-foot buffer east of the actual HST alignment and east of state highway 43), and the storm water storage capacity of this basin will be unaffected by the selection of the BNSF alternative.

The selection of one HST alignment over another will have no measureable effect on the larger public interest in flood protection.

Do the Hydrologic Features Facilitate Nutrient Recycling?

Nutrient recycling is a value of natural wetlands that are interconnected with a system of natural drainages. The hydrologic features of both HST alignments consist of engineered water delivery and storage infrastructure that is maintained to optimize its efficiency in the delivery and storage of water. Functional wetlands are not a significant component of the hydrologic features found along both HST alignments. Thus, nutrient recycling is not a meaningful value of these hydrologic features, regardless of HST alignment. The selection of either alignment would have a negligible effect on nutrient recycling.

Do the Hydrologic Features Facilitate Sediment Capture?

These hydrologic features, regardless of HST alignment, are engineered systems designed to deliver irrigation water and temporarily store storm water on individual properties. With the exception of a concrete wash water detention basin (BNSF-14) associated with Golden Empire Concrete that captures wash water and sediment generated during equipment cleaning, the function of these

features is not to capture sediment, and it is unlikely that agricultural basins capture meaningful amounts of sediment. Storm water basins may capture some sediment, and may need to be cleaned out from time to time. Sediment capture, however, is not a significant function of the hydrologic features of either alignment, and eventual selection of one alignment over another will have no meaningful effect on sediment transport in the Wasco/Shafter area.

Public Recreation

The hydrologic features along both HST alternatives have been designed to facilitate agricultural irrigation or stormwater management. None of the features have any utility for public recreation. Furthermore, all such features are located on private lands where trespass is highly discouraged. HST alignment selection will have no effect on public recreation.

Conclusion

As should be apparent from the above discussion, the hydrologic features occurring along both the BNSF and Wasco-Shafter Bypass alignments are limited to engineered agricultural basins, industrial basins, municipal basins, canals, ditches and artificial depressions. Natural drainages and associated wetlands are entirely absent from either alignment. At the time of LOA's survey of the two alignments during the spring of 2013, one 0.97-acre agricultural basin along the Wasco-Shafter Bypass alignment had naturalized and possessed apparent habitat values suitable for a variety of wildlife species including wintering waterbirds. Apart from that basin, there is no appreciable difference in the effects that selection of either alignment would have on aquatic ecosystems of the Wasco/Shafter area, notwithstanding the greater acreage of such features along the BNSF alignment, because the hydrologic features along either alignment, regardless of their acreages, provide little or no ecosystem functions or human values of the sort typically associated with naturally occurring aquatic ecosystems.

Sincerely,

David J. Hartesveldt
Senior Biologist, Live Oak Associates, Inc.



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an Ecological Consulting Firm

DAVID J. HARTESVELDT

Principal
Senior Botanist and Wetland Scientist

EDUCATION

- Graduate Studies. Botany, San Jose State University, San Jose, CA. 1972 to 1976
- B.A. History, San Jose State University, San Jose, CA. 1969

AREA OF EXPERTISE

General botany, flora, wetlands and wildlife issues of California, threatened and endangered species, environmental regulations (CEQA, NEPA, CESA Clean Water Act, Fish and Game Code)

PROFESSIONAL EXPERIENCE

- Live Oak Associates, Inc. (formerly Hartesveldt Ecological), Oakhurst, CA. Co-Owner, President, Senior Botanist and Wetland Scientist. 1995 to Present.
- Consulting Biologist 1985 to present.
- Crater Lake National Park, OR. Park Ranger. Summer Season, 1979 and 1980.
- Illinois Valley High School, Cave Junction, OR. High School Teacher. 1978 to 1986.

PROFESSIONAL TRAINING

- Wetland Delineation Refresher, Wetland Training Institute. 1/95
- Jurisdictional Delineation of Wetlands in the San Francisco Bay Region, American Fisheries Society. 5/88

MEMBERSHIPS IN PROFESSIONAL ORGANIZATIONS

Society of Wetland Scientists, Association of Environmental Professionals (AEP)

QUALIFICATIONS

Mr. Hartesveldt is an experienced botanist and wetlands ecologist who has been studying the flora of California for much of his adult life. Although his particular interest is the flora of California, he has studied regional floras in Oregon and Minnesota, states in which he worked as a seasonal ranger for the National Park Service. He has provided consulting services to a variety of clients including local agencies, planning firms, attorneys, and developers. His areas of expertise include the following:

- **Delineation of Jurisdictional Waters.** Mr. Hartesveldt has completed specialized training in wetland delineation methodologies and during the past ten years he has completed numerous detailed wetland delineations. He has conducted studies in tidal marshes, diked salt marshes, freshwater marshes, ruderal seasonal wetlands, alkali wetlands, vernal pools, and montane meadows.
- **Wetland Permit Assistance.** Mr. Hartesveldt has assisted clients in securing U.S. Army Corps of Engineers, California Regional Water Quality Control Board, and California Department of Fish and Wildlife permits for filling wetlands and other jurisdictional waters. These permits frequently are conditional upon the preparation and implementation of mitigation plans that enhance existing wetland values or provide replacement habitat.

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- **Special Status Species Surveys.** Mr. Hartesveldt has conducted numerous surveys for threatened or endangered plants and animals, and/or their habitats, and assisted his clients with mitigation that reduced impacts to such species.
- **Preparation of CEQA/NEPA Documents.** Mr. Hartesveldt has prepared portions of numerous EIR's, initial studies, and NEPA documents requiring reconnaissance level wetland delineations, special status species surveys, habitat mapping, etc. As a project manager for many of these projects, he has supervised interdisciplinary teams of biologists characterizing the biological setting of project sites and planning areas, determining project impacts, and developing conceptual mitigation plans consistent with the requirements of CEQA and NEPA.



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REPRESENTATIVE HYDROLOGIC FEATURES ALONG THE BNSF & WASCO SHAFTER ALIGNMENTS

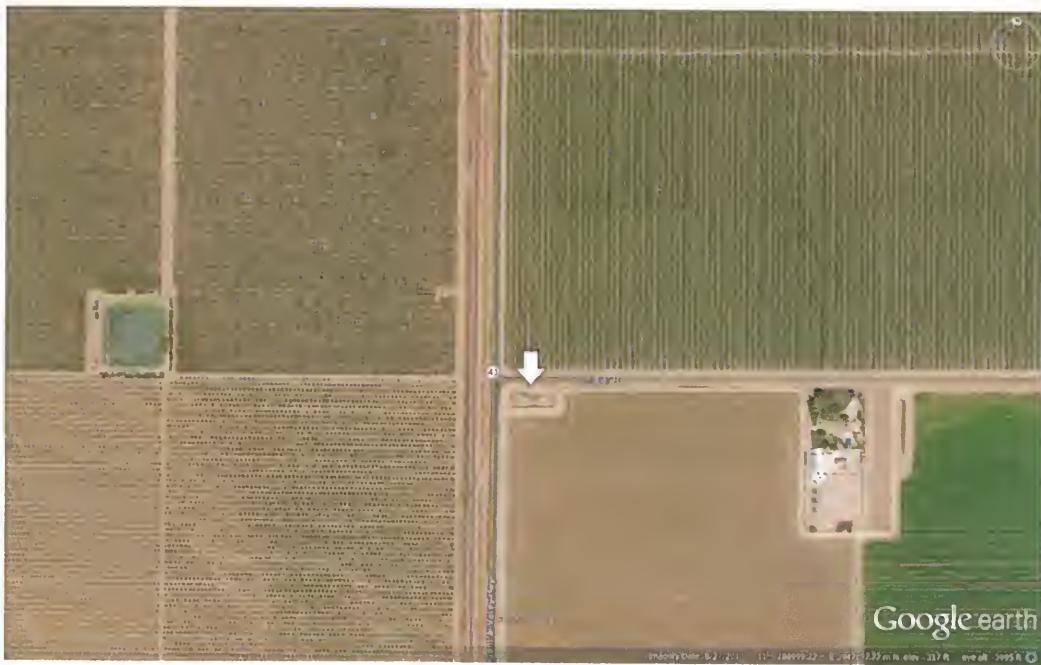


April 3, 2013

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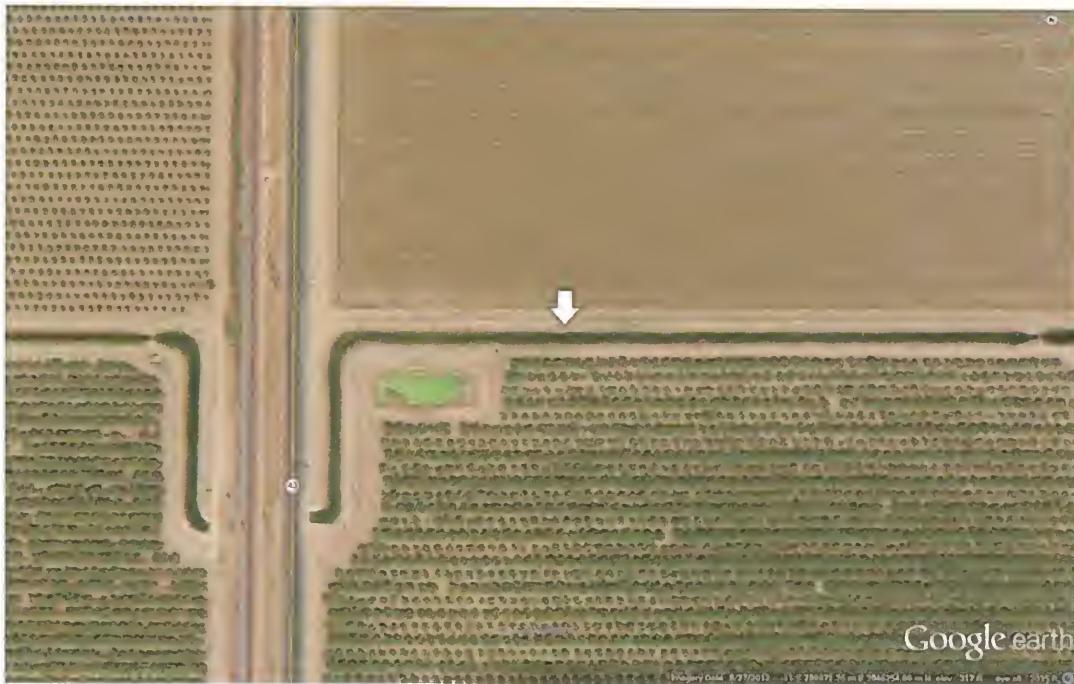
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Photograph #1: Aerial photo of hydrologic feature 489AOW01 (reservoir).



Photograph #2: Ground photo of hydrologic feature 489AOW01 (reservoir).



Photograph #3: Aerial photo of hydrologic feature 491AOW01 (canal).



Photograph #4: Ground photo of hydrologic feature 491AOW01 (canal).



Photograph #5: Aerial photo of hydrologic feature 495PIOW01 (reservoir).



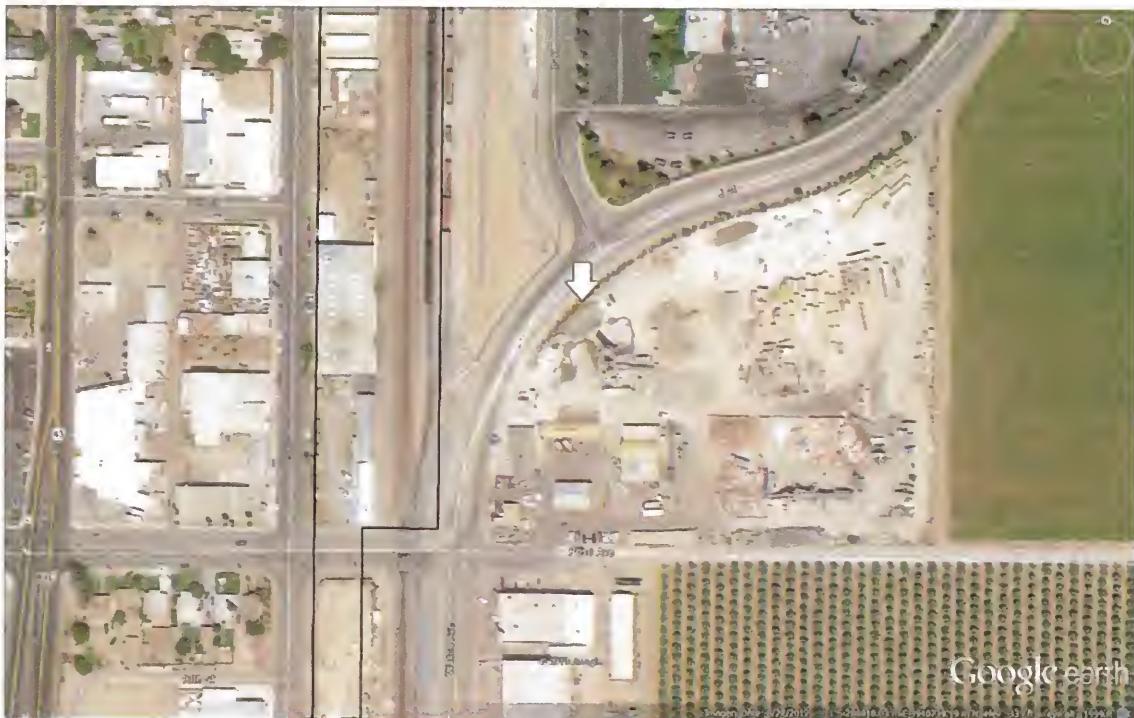
Photograph #6: Ground photo of hydrologic feature 495PIOW01 (reservoir).



Photograph #7: Aerial photo of hydrologic feature 498PIOW02 (Reservoir).



Photograph #8: Ground photo of hydrologic feature 498PIOW02 (Reservoir).



Photograph #9: Aerial photo of hydrologic feature BN168OW01 (Golden Empire Concrete settling pond).



Photograph #10: Ground photo of hydrologic feature BN168OW01 (Golden Empire Concrete settling pond).



Photograph #11: Aerial photo of hydrologic feature 516BOW01 (reservoir).



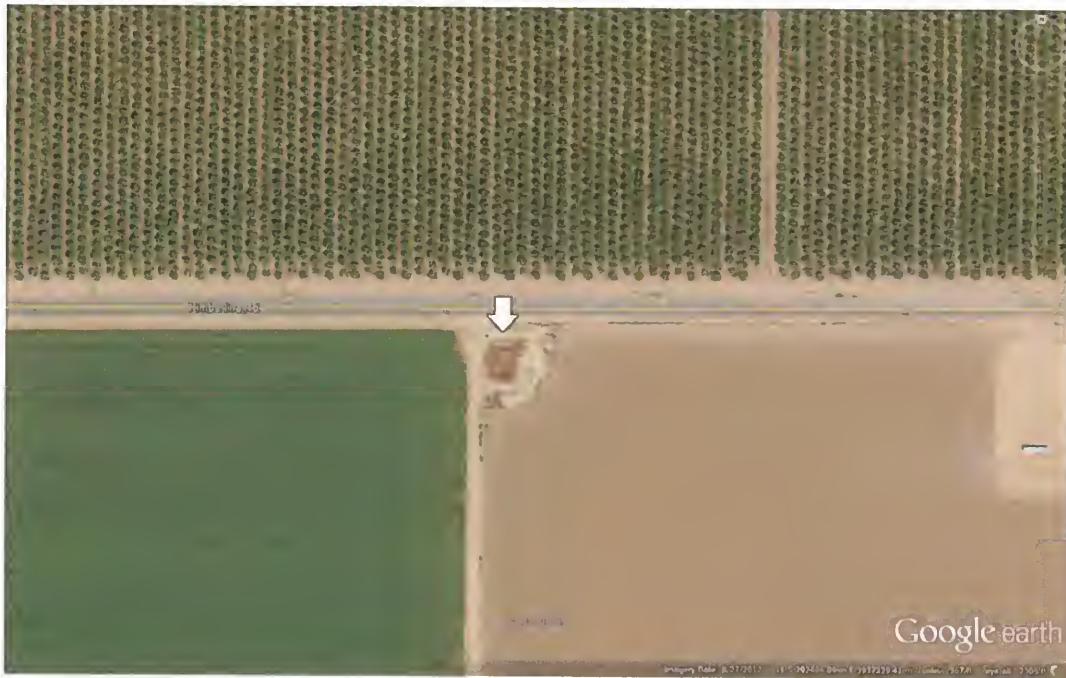
Photograph #12: Ground photo of hydrologic feature 516BOW01 (Reservoir).



Photograph #13: Aerial photo of hydrologic feature CCE133OW (although a reservoir is mapped at this location, the reservoir was removed in 2010).



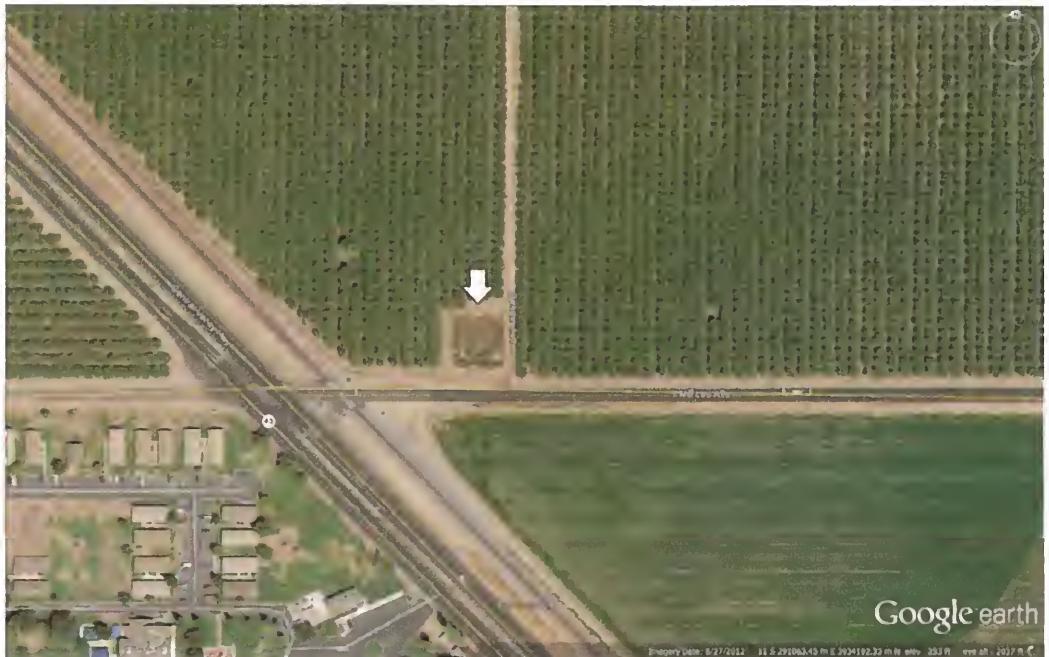
Photograph #14: Aerial photo of hydrologic feature CCE133OW (what was a reservoir in 2009 is now an orchard).



Photograph #15: Aerial photo of hydrologic feature 544DOW01 (Reservoir).



Photograph #16: Ground photo of hydrologic feature 544DOW01 (reservoir).



Photograph #17: Aerial photo of hydrologic feature 565AOW01 (reservoir).



Photograph #18: Ground photo of hydrologic feature 565AOW01 (reservoir).



Photograph #19: Aerial photo of hydrologic feature 622BOW02 (reservoir).



Photograph #20: Aerial photo of hydrologic feature 622BOW02 (Reservoir).